LEGISLATIVE COUNCIL
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Proceedings of the Council

BENGAL LEGISLA.
24 JAN. 14

OF THE

LIEUT.-GOVERNOR OF BENGAL

FOR THE PURPOSE OF

MAKING LAWS AND REGULATIONS.

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JANUARY TO DECEMBER, 1894.

Published by Authority of the Council.

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FOR THE PURPOSE OF

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Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892.

The Council met at the Council Chamber on Friday, the 9th February, 1894.

Present:

The Hon'ble Sir Charles Alfred Elliott, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble T. T. Allen.

The Hon'ble H. J. S. Cotton, C.S.I.

The Hon'ble Sir John Lambert, K.C.I.E.

The Hon'ble Gonesh Chunder Chunder.

The Hon'ble D. R. Lyall, C.S.I.

The Hon'ble J. A. Bourdillon.

The Hon'ble Maulvi Abdul Jubbar Khan Bahadur.

The Hon'ble F. R. S. Collier.

The Hon'ble C. E. Buckland.

The Hon'ble Surendranath Banerjee.

The Hon'ble L. Ghose.

The Hon'ble Maulvi Serajul Islam Khan Bahadur.

The Hon'ble W. C. Bonnerjee.

The Hon'ble J. G. Womack.

The Hon'ble Maharaja Jagadindra Nath Roy of Nator.

The Hon'ble J. N. Stuart.

NEW MEMBERS.

The Hon'ble Messrs. Buckland, Bonnerjee and Stuart, and the Hon'ble Maharaja Jagadindra Nath Roy of Nator, took their seats in Council.

MORAL IMPROVEMENT OF CONVICTS.

In the absence of the Hon'ble Maulvi Syed Fazl Imam Khan Bahadur, the Hon'ble Maulvi Serajul Islam Khan Bahadur asked—

Have the Government received any report from the non-official Visitors of Jails in Bihar; and if any report has been received, have any suggestions been made by the said Visitors for the moral improvement of convicts, and will the Government lay on the table such reports?

[*Mr. Cotton; Maulvi Serajul Islam Khan Bahadur.*]

The HON'BLE MR. COTTON replied:—

"The observations recorded by all non-official Visitors of Jails are laid before the Inspector-General of Jails, and that officer has reported to Government that no suggestions by the non-official Visitors of Jails in Bihar have been made on the subject of the moral improvement of convicts."

RELIGIOUS SERVICES IN JAILS.

In the absence of the HON'BLE MAULVI SYED FAZL IMAM KHAN BAHADUR, the HON'BLE MAULVI SERAJUL ISLAM KHAN BAHADUR asked—

The Government having in view the improvement of jails, do they not think it advisable to confer the benefits of religious training on convicts by establishing religious services in jails?

The HON'BLE MR. COTTON replied:—

"This subject has been under the consideration of Government on various occasions, and it has been decided that no religious services shall be permitted in Indian jails. Any deviation from this rule in ordinary jails would, in the opinion of Government, lead to confusion and be subversive of jail discipline. The only exception is in the Presidency Jail, where a large number of European prisoners is sometimes collected, and where provision has been made for the performance of the service of the Protestant and Roman Catholic Christian Churches. In all jails prisoners of all classes are allowed to perform their private devotions at suitable times and in suitable places."

TRIAL OF CASES DURING MAGISTERIAL TOURS.

The HON'BLE MAULVI SERAJUL ISLAM KHAN BAHADUR asked—

(*a*) Is the Government aware of the great inconvenience and harassment caused to the parties and their witnesses in criminal cases by reason of their being compelled to follow magisterial officers about in camp during their tour?

(*b*) If so, will the Government be pleased to adopt some measure with a view to remove the grievances in this connection?

(*c*) Whether it would not be practicable for Magistrates, while out on tour, to deal only with such cases as arise in the locality which they have to visit, instead of trying cases coming from places beyond a reasonable distance?

[*Mr. Cotton; Maulvi Serajul Islam Khan Bahadur.*]

The Hon'ble Mr. Cotton replied:—

"No reports have reached the Government to show that inconvenience is often caused to parties and witnesses by their being compelled to follow magisterial officers on their tour, and the Government is not disposed to think that any serious inconvenience is felt by the class as a whole; for while some persons may have to go further to reach the camp than if the Court was at the head-quarters station, others have their cases tried at places closer to their homes. It is not practicable for Magistrates while on tour to deal only with cases arising in the vicinity of their camp, but the Government believe that, as a rule, efforts are made by Magistrates to fix those dates for the hearing of cases on which their camp will be nearest to the place where the case arose.

"His Honour will cause a copy of the Hon'ble Member's question and of this answer to it to be communicated to all Magistrates with instructions to comply with the spirit of the Hon'ble Member's wishes to the utmost of their power."

EMPLOYMENT OF MUHAMMADANS IN THE PUBLIC SERVICE.

The Hon'ble Maulvi Serajul Islam Khan Bahadur asked—

Whether the Government is aware of any improvement, and if any, what improvement, in the position of the Muhammadans with respect to State employment since the Resolution of the Government of India of the 13th October, 1885?

The Hon'ble Mr. Cotton replied:—

"The question of the employment of Muhammadans in Government service continues to receive the careful attention of Government, and is made the subject of comment every year in the annual Administration Reports received from Commissioners of Divisions. The Lieutenant-Governor is satisfied that there is an improvement in the position of Muhammadans in respect to their employment corresponding to the improvement which is taking place in their education. In the selection of recruits for the Provincial and Subordinate Civil Services, consideration is always given to the claims of Muhammadan candidates who have obtained qualifying marks. The Civil List shows that 15

Muhammadans have been appointed to officiate as Deputy Magistrates and Collectors and 9 as Sub-Deputy Collectors during the past two and a half years.

"The percentage of Muhammadan Deputy Magistrates and Collectors now in the service is 11·5, while in January, 1885, the percentage was 10·8, and the proportion is much larger in the lower ranks of the service to which officers have recently been appointed than it is in the higher grades.

"A special table is appended to the annual reports of Divisional Commissioners showing the number of Muhammadans in Government service, and the figures published in last year's reports show that the number had increased from 2,722 in 1891-92 to 2,913 in 1892-93."

TRANSFER OF THE CHITTAGONG DIVISION TO ASSAM.

The HON'BLE MAULVI SERAJUL ISLAM KHAN BAHADUR asked—

Whether the Government will be pleased to inform if it is in contemplation to transfer the Chittagong Division to the Chief Commissionership of Assam; and whether it is aware of the extreme apprehension with which such transfer is regarded by the people of the division?

The HON'BLE MR. COTTON replied:—

"The proposal to transfer the Chittagong Division to the Chief Commissionership of Assam has been made, and is under the consideration of Government; but it is not contemplated to give effect to it until the railway connecting Chittagong with Assam has been completed, and the Government of India has not yet issued any final orders on the subject."

REDUCTION OF THE NUMBER OF SUBORDINATE JUDGES' COURTS AT PATNA.

The HON'BLE MR. W. C. BONNERJEE asked—

I. If it has been decided to have only two Subordinate Judges' Courts for the district of Patna? and if so—

[*Mr. Bonnerjee; Mr. Cotton.*]

II. Whether the Government has, in arriving at this decision, taken into account the fact that the civil work of the district is very heavy, that the Subordinate Judges, besides title suits, have to decide Small Cause Court cases, and also, at the request of the District Judge, Land Acquisition and Succession Certificate cases, and that not long ago the District Judge had to remove a heavy title suit from the file of one of the three Subordinate Judges to his own file on the ground that the latter had his hands quite full, and that, if he went on with that case, the business of his Court would be at a standstill for some time?

The HON'BLE MR. COTTON replied:—

"The question raised by the Hon'ble Member has not been submitted for the consideration of Government, and it follows therefore that no decision has been arrived at. Any change in the number of Subordinate Judges would require the sanction of Government, and that sanction would not be given except on the recommendation of the High Court, by whom such circumstances as those alluded to by the Hon'ble Member in his question would no doubt be fully considered."

NUMBER OF CERTAIN CLASSES OF PUBLIC SERVANTS.

The HON'BLE MR. COTTON said:—"Before I proceed to answer the questions placed on the notice paper by the HON'BLE BABU SURENDRANATH BANERJEE, I desire to fulfil the pledge made in this Council on the 11th November last, in reply to a question made by the Hon'ble Member regarding the number and classes and salaries of persons in the public service. The HON'BLE THE PRESIDENT then stated that the information asked for in regard to the Indian Civil Service, the Provincial Service, and the Subordinate Service in Bengal, so far as the employment of Europeans, Eurasians and Natives of India is concerned, would be procured and laid on the table. I have now the pleasure to fulfil that pledge, and lay on the table a statement which supplies the information promised."

[*Mr. Cotton; Babu Surendranath Banerjee.*]

***Statement** showing the number of officers in the Indian Civil Service, the Provincial (Executive and Judicial) Civil Service, a the Subordinate Civil Service, on the 1st July, 1893.*

CLASS OF SERVICE.	*a* Drawing monthly salaries from Rs. 200 to Rs. 400.			*b* Drawing monthly salaries from Rs. 401 to Rs. 800.			*c* Drawing monthly salaries from Rs. 801 to Rs. 1,000.			*d* Drawing monthly salaries from Rs. 1,001 to Rs. 1,500.			*e* Drawing monthly salaries from Rs. 1,501 to Rs. 2,000.			*f* Drawing monthly salaries from Rs. 2,001 to Rs. 3,000.			*g* Drawing monthly salaries from Rs. 3,001 to Rs. 4,000.			REMARKS.			
	Natives of India.	Eurasians.	Europeans.	Natives of India	Eurasians.	Europeans.	Natives of India.	Eurasians.	Europeans.	Natives of India.	Eurasians.	Europeans.	Natives of India.	Eurasians.	Europeans.	Natives of India.	Eurasians.	Europeans.	Natives of India.	Eurasians.	Europeans.	Natives of India.	Eurasians.	Europeans.	Total.
Indian Civil Service ...	1	Nil	6	8	Nil	31	3	Nil	10	Nil	Nil	22	3	Nil	46	3	Nil	59	Nil	Nil	11	18	Nil	185	
Provincial Civil Service ...	553	19	5	132	7	7	8	Nil	Nil	1	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	694	26	12	
Subordinate Civil Service...	36	4	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	36	4	Nil	
Total ...	590	23	11	140	7	38	11	Nil	10	1	Nil	22	3	Nil	46	3	Nil	59	Nil	Nil	11	748	30	197	

* Out of 207 officers, of whom four are drawing salaries above Rs 4,000.

CLASSIFICATION OF GOVERNMENT EMPLOYES ACCORDING TO NATIONALITY AND SALARY.

The HON'BLE BABU SURENDRANATH BANERJEE asked—

Will the Government state whether a return was submitted to Parliament in 1891 showing the number of European, Eurasian and Native officers of Government, on 1st April, 1890, on salaries ranging from Rs. 1,000 to Rs. 1,00,000 and upwards per annum?

If so, is the Government prepared to lay this return on the table so far as Bengal is concerned, giving details by departments, and will the Government state what would be the cost of bringing the information up to the 1st April, 1893?

The HON'BLE MR. COTTON replied:—

"The return referred to was presented to Parliament on the 13th May, 1892.

"A copy of this statement was laid on the table of the Legislative Council of the Governor General of India on the 9th March, 1893, by the HON'BLE SIR DAVID BARBOUR in reply to a question put in that Council by the HON'BLE

MR. CHENTSAL RAO, and will be found annexed to the Council's Proceedings of that date. This statement gives separate statistics for the several provinces of British India, but does not give details by departments.

"Looking to the recent production and publication of these returns, the Lieutenant-Governor is disposed to think that to prepare this statement afresh with the details required by the Hon'ble Member would occasion unnecessary trouble and expense, but he will cause further inquiries on the subject to be made, and will communicate the result to the Hon'ble Member."

HINDU RELIGIOUS ENDOWMENTS.

The HON'BLE BABU SURENDRANATH BANERJEE asked—

Will the Government enquire into the present state of Hindu religious endowments administered by Hindu Mahants with a view to ascertain whether these funds have not in many cases been wasted or misappropriated?

The HON'BLE MR. COTTON replied:—

"As far as Government is aware, no such suggestion has ever been laid before it, and there are no facts at present within its cognizance which lead to the conclusion that such an enquiry is required."

PUBLIC WORKS CESS AND SANITATION.

The HON'BLE BABU SURENDRANATH BANERJEE asked—

Will the Government state what the surplus balance of the Public Works cess has been for the last three years, year by year?

And if there is a balance, is the Government prepared to devote it to the improvement of sanitation in the mufassal?

Is the Government prepared to accept the principle which Miss Florence Nightingale advocates for purposes of village sanitation in this country, viz., "the localization of existing village cesses, and that none of the proceeds should leave a village until provision has been made for the sanitary needs most directly affecting life and health?"

[*Mr. Bourdillon; Babu Surendranath Banerjee.*]

The HON'BLE MR. BOURDILLON replied:—

"There is no such thing as a surplus balance of the Public Works cess. The cess is levied for the construction, charges and maintenance of Provincial Public Works constructed for the benefit of the province and for its protection against famine: it is as a matter of practice primarily devoted to the payment of the charges for interest on the capital expended on canals in excess of the net receipts from these works. The estimate for these charges in 1893-94 is Rs. 24,48,000, and as the proceeds of the tax are estimated for the same year at Rs. 41,50,000, there will remain a considerable sum above the amount appropriated for interest. This sum is merged in the Provincial revenues, and whatever its amount may be, it is always much less than the sum annually expended by the Government on the construction, charges and maintenance of ordinary Provincial Public Works: this sum usually exceeds thirty lakhs of rupees, and is quite insufficient for the requirements of the province.

"In these circumstances, no balance is available for expenditure on sanitation in the mufassal.

"No village cesses of the kind referred to by Miss F. Nightingale exist in Bengal, and the Lieutenant-Governor is doubtful whether any feasible scheme for giving effect to her suggestions could be devised at present."

BHUTAN DOOARS ACT.

The HON'BLE BABU SURENDRANATH BANERJEE asked—

Will the Government state why Act X of 1859 is still allowed to remain in force in the Jalpaiguri district when it has been repealed in the other districts of Bengal, and why Act VIII of 1885 (the Bengal Tenancy Act) is not enforced in the aforesaid district? Is the Government aware of the following expression of opinion recorded by Mr. Justice Rampini and Mr. Finucane, Director of Land Records and Agriculture, that the Bhutan Duars Act (Act XVI of 1869), which is in force in the khas mahals of Jalpaiguri, is no law at all, for it merely excludes the ordinary Civil Courts from the cognisance of suits relating to immoveable property, revenue or rent, without laying down any law or rules for the guidance of officers appointed by the Government to exercise jurisdiction in this tract of country?

[*Babu Surendranath Banerjee; Mr. Buckland; Mr. Cotton.*]

Will the Government state why, in spite of this expression of opinion and the petitions of the people concerned, the Act is still allowed to remain in force in the aforesaid tract, and the people deprived of the privilege of having their rights judicially disposed of by the ordinary Civil Courts?

The HON'BLE MR. BUCKLAND replied:—

"The subject of the Hon'ble Member's interrogation has for some time been under the consideration of Government. The Government does not agree with the remark of Mr. Rampini and Mr. Finucane that Act XVI of 1869 'may be briefly described as no law at all,' since it gives the force of law to certain rules therein contained. In April last the Lieutenant-Governor informed a deputation of tea-planters that he was prepared to recommend to the Government of India that Act XVI of 1869 should be repealed, but the question remains as to the law by which it should be replaced. This question has been under discussion with the Board and the Law Officers of Government, and their final opinion is still awaited."

COMPLAINT AGAINST THE SOLDIERS OF THE 8TH BENGAL CAVALRY.

The HON'BLE BABU SURENDRANATH BANERJEE asked—

Has the attention of Government been called to the proceedings of some soldiers of the 8th Bengal Cavalry who, with a number of coolies, have frequently been harassing the people of Moheshtolah and the neighbouring villages in the 24-Parganas by cutting their mat-reeds (*nadur*) and taking away by force sugarcane, plantains and vegetable products belonging to the villagers, whether Mr. Nurul Huda, Joint-Magistrate, went to make an enquiry and expressed his regret at the doings of the soldiers, and whether Government intended to take any further action in the matter to prevent a recurrence of these proceedings?

The HON'BLE MR. COTTON replied:—

"The facts stated in this question have not been brought to the notice of Government, and Government does not propose to interfere in the matter referred to unless it has reason to suspect that the action taken by the local officers is insufficient for the prevention of disorder."

[*Babu Surendranath Banerjee; Mr. Cotton.*]

MR. MORSHEAD'S JUDICIAL WORK.

The HON'BLE BABU SURENDRANATH BANERJEE asked—

Is it a fact that in the month of August or September last the High Court suggested to the District and Sessions Judge of Muzaffarpur that he should submit a report about Mr. Morshead, at that time Sub-divisional Officer of Hazipur, regarding the quality of his work? Did the Judge report that Mr. Morshead was incompetent to exercise the powers vested in him? Has Mr. Morshead since then been invested with summary powers as Sub-divisional Officer of Kurseong, which he did not then possess?

The HON'BLE MR. COTTON replied:—

"It is the case that the Judge of Muzaffarpur reported unfavourably of the judicial work of Mr. Morshead. In consequence of this report, the Lieutenant-Governor has withdrawn the summary powers with which Mr. Morshead was invested as Sub-divisional Officer of Kurseong."

PETITION FROM ALI HOSSEIN OF SIWAN.

The HON'BLE BABU SURENDRANATH BANERJEE asked—

Will the Government state whether it has received a petition from one Ali Hossein of Mahamda in Saran district, alleging that the Joint-Magistrate of Siwan, Mr. Lang, during the trial of a case No. $\frac{5}{9}^{0}$ of 1893, under section 107, Criminal Procedure Code, Empress *versus* Kindhari Rai and Dilram Sahoo, connected with the Basantpur case, used the following expressions or any such towards the said Ali Hossein when he was being examined as a witness:—"You appear on behalf of Hindu and hence you are not Mussalman, but you are son of a Rajput and Hindu. I have exempted Mussalmans, Chamars and Dosadhs from the tax which will be levied on Hindus of that *elaka*, but now you shall have to pay the tax."

If so, will the Government state what enquiries have been made into the above allegations, and with what result?

If not, will the Government enquire into the allegations and place the result of the enquiry before the Council?

[*Mr. Cotton; Mr. Ghose; Mr. Bourdillon.*]

The Hon'ble Mr. Cotton replied:—

"The Government received an unsigned petition, purporting to come from one Ali Hossein, in October last, which contained statements similar to those reproduced in the Hon'ble Member's question. An explanation was called for and a report was submitted by Mr. Lang through the Commissioner, which has satisfied the Lieutenant-Governor that the words complained of were not used by Mr. Lang, and that the incident is unworthy of further notice."

APPOINTMENT OF PLEADERS AND MUKHTEARS AS MUNICIPAL COMMISSIONERS.

The Hon'ble Mr. L. Ghose asked—

Has the attention of the Government been drawn to a letter published in the *Statesman* of the 16th January last, purporting to be a circular issued by the Commissioner of the Presidency Division to District Magistrates of the Division, directing them to avoid, as a general rule, recommending pleaders or mukhtears for appointment as Municipal Commissioners?

Does such direction meet with the approval of the Lieutenant-Governor, and if not, will His Honour order the withdrawal of so much of the circular as relates to the exclusion of pleaders and mukhtears from the sphere of nomination?

The Hon'ble Mr. Bourdillon replied:—

"The attention of Government has been drawn to the circular in question. The Commissioner of the Presidency Division has explained that his meaning was that pleaders and mukhtears should not as a rule be nominated for appointment as Municipal Commissioners, since it was probable that this class would be largely represented among the elected Commissioners. The Lieutenant-Governor has ascertained that the orders in question were understood in this sense by the District Magistrates of the Presidency Division, and he does not propose to interfere in a matter in which the Commissioner was fully entitled to use his own discretion."

THE BASANTPUR RIOT CASE.

The HON'BLE Mr. L. GHOSE asked—

Has the attention of the Government been drawn to the comments made by Mr. H. W. Gordon, Sessions Judge of Saran, on the conduct and evidence of certain police officers in his judgment, dated the 28th December, 1893, in the case of the Empress *versus* Ram Nath Sahoo and others, commonly known as the Basantpur case, and also to the following passages thereof:—"On the 1st December, Mr. Garth asked for the production of the police papers in the Bala case (not the diaries), and the District Magistrate was requested to direct the District Superintendent of Police to produce them, but they were never produced. I then, under section 172, Criminal Procedure Code, called for the special diaries in the case..... ..... In reply to a further call the District Superintendent regretted his inability to produce the diaries of preceding dates on the ground that they had been done away with by Sub-Inspector Khyrat Ali..... I then asked for copies of the diaries, and in reply I am informed by the District Magistrate that neither the originals nor copies of the diaries in question are forthcoming ..... No explanation is given of the inability of the District Superintendent to produce the copies asked for?"

Has the Government taken any, and if so what, action with reference to the police officers whose evidence has been disbelieved by the Sessions Judge, and with reference to Sub-Inspector Khyrat Ali for having done away with the original diaries?

Whether the Government will call upon the District Magistrate and the District Superintendent of Police to explain why the copies of the diaries asked for by the Sessions Judge were not produced, and whether such explanation will be laid on the table?

The HON'BLE MR. COTTON replied :—

"The Lieutenant-Governor's attention has been attracted to the case in question and to the observations of the Sessions Judge, and His Honour has ordered a careful enquiry to be made into the conduct of the police, and especially in regard to the non-production of police papers when called for by the Judge."

[*Mr. Ghose; Mr. Cotton.*]

PROCEDURE OF POLICE IN RECORDING STATEMENTS OF WITNESSES.

The Hon'ble Mr. L. Ghose asked—

(*a*) Is the Government aware that there is a general practice among police officers in the mufassal, while recording statements of witnesses during an investigation under Chapter XIV of the Criminal Procedure Code, not to record such statements separately under section 161 of the Code, but to incorporate them with other matters required to be recorded under section 172 of the Code, such other matters not being liable to be called for by the accused person or his Counsel?

(*b*) Whether such practice owes its origin to, or has been sanctioned by, a circular issued by, or under the authority of, the Inspector-General of Police?

(*c*) Whether, in view of the difficulties thrown in the way of efficient cross-examination and of a full and impartial trial, and having regard to the observations of the learned Judges of the High Court in the case of Sheru Sha *versus* the Queen-Empress (Indian Law Reports, 20 Cal., page 642), His Honour the Lieutenant-Governor will order the discontinuance of such practice, and direct that all statements of witnesses recorded under Chapter XIV, Criminal Procedure Code, shall be separately recorded under section 161 of the Code?

The Hon'ble Mr. Cotton replied:—

"The Government is not aware that there is any general practice among police officers such as the Hon'ble Member describes.

"The procedure to be followed by Police Officers in the preparation of special diaries is laid down in Circular No. 12 of the Inspector-General of Police, dated 30th October, 1893, a copy of which will be communicated to the Hon'ble Member for information. Any Police Officer making an investigation may, under section 161, Criminal Procedure Code, orally examine any witness, and may reduce that witness's statement into writing. He is not obliged to do either. But if he does record such statements, then his record is not privileged. The Lieutenant-Governor is advised that the discretion vested in Police Officers by section 161, Criminal Procedure Code, cannot legally be fettered by any executive order, and this point is made clear in the circular. The statements recorded under this section form no part of the diary made under

section 172 of the Code which a Police Officer is bound under law to keep, and is a record of the acts done by him and of the results of his investigation.

"The procedure which the Hon'ble Member desires to be prescribed is apparently the procedure which is actually in force."

BENGAL MUNICIPAL ACT, 1884, AMENDMENT BILL.

The HON'BLE MR. BOURDILLON, in presenting the final report of the Select Committee on the Bill to amend the Bengal Municipal Act, III of 1884, said:—

"It is not my intention, Sir, to detain the Council to-day for any length of time by remarks on the Bill which, on behalf of the Select Committee, I have now the honour to lay on the table, since the Report of that Committee has purposely been made somewhat fuller than is usually the case. I will therefore say no more than is necessary in order to sketch briefly the past history of the measure and to indicate its leading features, so that members of this Council, who did not take part in the deliberations of the Select Committee, may be able to recognise at a glance the salient points which are most likely to provoke discussion and invite attack. Another cogent argument in favour of brevity, Sir, is that this measure has already been before the public for a long time, and the draft which the Committee now commend to the favourable verdict of the Council is the sixth which has been prepared with that object. The first draft of the Bill containing 38 sections was submitted to the Government of India so long ago as June 1891. After it had received the provisional and general approval of His Excellency the Governor-General, it was circulated for the opinions and suggestions of Commissioners and District Officers, who were requested to expedite their replies in order that the Bill might be passed into law during the Session of 1891-92—a sanguine expectation, which experience has shown to be fallacious. Before these replies had all been received, the Lieutenant-Governor found it advisable to enlarge the scope of the measure, and a second draft was circulated for further opinion in January 1892. A third draft, based upon the suggestions thus obtained, was introduced into Council on the 16th July of the same year, and was on the same day referred to a Select Committee. So expeditious were the proceedings of that body, that within a month-and-a-half they had prepared a

fourth draft, which they submitted to Council with a preliminary report, and which, in accordance with their recommendations, was circulated for opinions on the 30th August 1892. During the cold weather of 1892-93, this Select Committee sat again and prepared a fifth draft, which it was their intention to present to Council, but the illness of the HON'BLE MR. RISLEY, the Member in charge of the Bill, whose absence to-day every one here must deplore, and other causes, delayed the preparation of their report, and about this time the question of enlarging this Council came under discussion. The consequence was that no report was submitted, and, in accordance with the recommendations made by the HON'BLE MR. RISLEY, in his speech of the 19th July last in this place, the whole question was referred to the Select Committee to which additional members were nominated on that occasion; and this body, with very little change in its constitution, now lays on the table as the result of its labours a Bill of 93 sections. During the two-and-a-half years which have elapsed since the Bill was first drawn, its various provisions have been elaborately discussed, and an immense number of opinions has been collected and carefully considered by two Select Committees, so that it may be permitted to those who are responsible for the Bill to hope that it bears some marks at least of that wisdom which flows from a multitude of counsellors.

"You will not have failed to notice, Sir, that the report of the Select Committee is not unanimous; but considering the many contentious points that were laid before them, no other result could be expected, and a unanimous report could have introduced nothing but an epicene measure quite unworthy of the consideration of this Council. We have preferred to differ and be vigorous, rather than to be united and feeble, the minority being confident of a patient hearing and a wise decision on the part of this Council on each point as it arises.

"In the speech which he delivered at the meeting of the Council in July last, the HON'BLE MR. RISLEY mentioned a few of the principal provisions which had been embodied in the Bill prepared by the Select Committee over which he presided, but as several of those provisions have again been modified, it is necessary to deal with them again, and it will be most convenient to do so in the order in which they stand in the Bill. I propose to notice only those which seem to possess the greatest importance.

[*Mr. Bourdillon.*]

"The first of these is contained in sections 4 and 5 of the Bill which deal with a question of considerable administrative value, viz., the conditions under which the boundaries of a local area which enjoys municipal privileges under the Act can be varied, or a municipality be entirely removed from the operation of the Act. As the law now stands, a municipality once constituted cannot be abolished, nor can its limits be varied except upon the recommendation of the Commissioners at a meeting. For obvious reasons such a course is not often adopted, for Municipal Commissioners as a rule are as resolute as Gambetta not to cede a foot of territory, and these provinces afford more than one example of a municipality clinging with tenacious grasp to an outlying village, while it implores the District Board to relieve it of the cost of maintaining the intervening roads. Moreover, municipalities wax and wane, and several instances have been reported to Government of places which no longer fulfil the conditions which once entitled them to the benefit of municipal institutions. To meet such cases as these, it was at one time proposed to empower the Lieutenant-Governor of his own motion to withdraw any place from the operation of the Act. The suggestion was stoutly opposed, and eventually the Lieutenant-Governor, in a speech delivered in this Chamber on the 7th January 1893, announced his readiness to abandon the proposal as it then stood. The provisions of the Bill as now drafted have been designed to lay down a middle course. It is proposed to leave the power of the initiative as at present to the Municipal Commissioners themselves, whether for the exclusion of a municipality from the Act, or for its sub-division or expansion, but a clause has been added empowering Government to abolish a municipality or vary its boundaries only when it clearly appears that it no longer fulfils the conditions laid down by the Act; but before any action is taken in this direction, whether by Government of its own motion or upon the recommendation of the Commissioners, due notice of the intention will be given, and ample opportunity afforded for the expression of local opinion. I trust, Sir, that the moderation of this proposal will be generally approved, and that what is a substantial administrative inconvenience will be remedied.

"Under section 14 of the Act, the Local Government appoints one-third of the Commissioners of a municipality, the remaining two-thirds being elected by the rate-payers. It is proposed to take power to appoint some of these gentlemen either *ex-officio* or by name instead of by name

only as at present. The object of the change is to avoid the delay and inconvenience which sometimes occur when a Commissioner who has been nominated by Government leaves the locality. I venture to think that to this proposal a somewhat exaggerated importance has been attached, which finds expression in the dissent recorded by two members of the Select Committee.

"Section 7 of the Bill is important both for what it omits and for what it includes. It lays down distinctly for the first time what are the rates the payment of which up to a fixed minimum confers the franchise, and it extends the privilege of a vote to certain classes of persons who hitherto have not enjoyed it. The Select Committee anticipate little opposition to this reform. They have also in connection with this subject considered more than one proposal to raise the minimum qualifying payment to Rs. 5 instead of Rs. 3, but have rejected it since it appeared that the effect of such a change in the law would be the disenfranchisement of a large number of voters and the virtual abolition of many of the smaller municipalities.

"Section 22 of the Bill engrafts on to the stock of the old Act thirteen new sections designed to give effect to the Resolutions passed at the Belvedere Conference of the 18th July 1892, on the subject of Drainage and Water-supply. Upon the provisions of this section as originally drafted the previous Select Committee were unable to express any confident opinion, but they have been considered in great detail by the Committee whose spokesman I have the honour to be, and, except in regard to one point, we are practically unanimous. In the earlier draft of these sections it was assumed that the initiative in all schemes for water-supply and drainage, especially those in which more than one municipality is concerned, would be taken by Government; but on reconsideration it was decided, in accordance with the general spirit of municipal legislation of late years, that the Government should not act until it was found that the local authorities would not do so, and that an opportunity of action should always be accorded to the latter in the first instance. Ample provision has also been made for the full consideration of the scheme by all concerned, but a minority of the Committee urge that the ultimate decision on the question whether a work should be carried out or not should be left to the local authorities concerned. It is the opinion of the majority that the insertion of such a clause as this would go far to render inoperative the whole provisions of this section.

[*Mr. Bourdillon.*]

"The draft Bill as it reached the present Select Committee fresh from the anvil of their predecessors provided with great detail for the appointment of "an Assessor of municipal taxes for every municipality or for any two or more municipalities according as the Local Government shall direct," and for the results which would flow therefrom. No principle of the Bill has been more bitterly attacked than this, and the assaults have come from many quarters. Moreover, the Committee were penetrated with the conviction that, even were the principle adopted, great difficulties would surround its execution in practice. While it was pressed on the one hand that the appointment of an Assessor would relieve the Commissioners of what is often regarded as an odious duty, it was forcibly urged in reply that an outside Assessor from want of local knowledge would be useless in the case of the numerous municipalities in which the tax on persons is in force, and that to appoint an Assessor to every municipality would involve them in an expense for which, in the great majority of cases, there would be no justification, while the alternative course, viz., to select those in which an Assessor should be nominated would be an invidious and almost impossible task for Government to undertake. After giving the matter their best consideration, the Committee unanimously agreed that the necessities of the case would be fully met by providing for the appointment of an Assessor only when the need for his services is clearly demonstrated, and the municipality concerned has failed to accept the opportunity offered it of rectifying its assessment. They believe that the new section 111A, enacted by section 40 of the Bill, will be found to provide the requisite remedy.

"The question of Building Regulations (section 64) is one which has occupied much of the time of the Select Committee, and they have found it advisable to redraft sections 237 to 241 of the Act which treat of this subject. The more elaborate provisions which it is now proposed to pass into law are for the most part taken from the Punjab Municipal Act, which represents the fine flower of municipal legislation, and the latest effort of the Supreme Legislative Council in that direction. It has been admitted that some of these provisions (although confined to houses not being huts) are more suitable to large towns such as Howrah, Dacca and Patna than to the rank and file of small municipalities, and in order to meet this difficulty, it has been left to the option of Municipal Commissioners to make elaborate rules or not, and it has been specially provided that the section under which the power to make such rules is

given shall not be extended to any municipality except at the request of the Commissioners. The effect will be that the simpler provisions of section 238 as now drafted will be in force in all places to which Part VI of the Act may be extended, while those Municipalities which are ambitious of more elaborate regulations will be able to have them introduced by applying to the Lieutenant-Governor.

"The small space occupied in the Bill by the sections referring to the important question of the levy of a water-rate (section 76) does not adequately convey the pains which have been bestowed upon the subject, nor its intrinsic importance, which grows every day with the development of water-supply schemes in all parts of the province. The Committee have stated definitely the principle upon which the rate shall be assessed, and have declined to adopt the recommendation of their predecessors that the use of water for purposes other than domestic should be absolutely interdicted. They have also raised the maximum up to which the water-rate may be levied, and have provided that the Water-rate Fund may be charged with a proportionate share of the cost of collection and of the general establishment.

"In the same way the proposal to alter the system under which the cost of cleansing private privies and cesspools has hitherto been provided has received careful consideration, with the result that the Committee differing from their predecessors have decided not to recommend any change in the existing system. The tax is undoubtedly unpopular, and the suggestion to substitute a fee for service rendered in place of a general rate had at first sight an attractive appearance, but the practical difficulties of the proposal outweighed its theoretical advantages, and the Committee were unanimous in rejecting it. Some relief has been given by providing that the rate shall be assessed only on those holdings which contain a dwelling-house, and by allowing refunds or remission in the case of vacant holdings.

"These, Sir, are the principal subjects on which discussion and debate may be anticipated when the Bill is taken into consideration by this Council; but there are many others which, though not of the first magnitude, have considerable administrative importance. They are mentioned in the Report of the Select Committee, and for further particulars I will refer members of this Council to that report, naming here only three, viz., the power to make survey (section 62), the power to arrange for the extinction and prevention of fire (section 86), and the power to make rules as distinguished from bye-laws (section 90).

"With these few words, Sir, I desire to launch the Bill for the amendment of the Bengal Municipal Act upon the waters of debate. May no rude airs perplex the shining keel, and may the flood be neither too deep nor too stormy for the good ship or for the inexperienced mariner who stands at the helm. She has been long a-building: may the event prove that her lines are good and her construction stout and strong.

"I now beg to move that the Bill, as presented by the Select Committee, may be taken into consideration upon such a date as the President may think fit to direct, and as the Bill is long, and its provisions of very wide application, I have no doubt that members will desire to have ample time to consider it themselves and to refer it to their constituents for opinion."

LICENSED WAREHOUSE AND FIRE-BRIGADE ACT, 1893, AMENDMENT BILL.

The HON'BLE MR. COTTON moved for leave to introduce a Bill to amend Bengal Act I of 1893 (Licensed Warehouse and Fire-Brigade Act). He said:—

"Briefly speaking there are three reasons which render it necessary to amend the Act which was passed by this Council last year. The first relates to the payment of the annual fees prescribed for warehouses. It was the intention of this Council that these fees should be levied either in advance or by instalments, as the Municipal Commissioners might decide. One of the conditions under which a license is to be given is to the effect that the annual fee imposed in respect thereof shall be paid as in that case made and provided, and in the schedule annexed to the Act, which contains the form of license, provision is made for an annual or other date for payment of the fee. But there is no provision in the Act itself declaring that the fee shall be payable in advance, or otherwise, as the Commissioners may decide. This point was referred to the legal advisors of the Crown, and the Government has been informed that, as there is no express provision in the Act itself on this subject, the annual fees payable under the Act are not due or payable until the expiry of the year to which they relate. In order to remedy this defect, it is proposed to amend section 8 by specifically declaring that the annual fees shall be paid in one sum in advance or in quarterly or other instalments as the Commissioners may from time to time determine.

[*Mr. Cotton.*]

"The second reason for amending the Act is of very much greater importance and difficulty. The Government has been advised that the amount of fee to be charged for licenses for warehouses depends on the budget passed for the year, and that under section 26 the budget must be prepared in the month of February, and come into force on the 1st of April following, and that as no budget under the Act was prepared in the month of February, 1893, no fees can be levied under the Act for the year 1893-94. This is a very serious question. The budget was prepared in February, 1893, and was duly submitted to Government, and has been approved by the Government, but from the nature of the case that budget was prepared under the repealed Act IV (B.C.) of 1883, and the provision of the new law, section 2, sub-section (2), which introduces a saving clause to the effect that all rules, financial arrangements, &c., made under the old Act will continue to be in force, unfortunately is not, as we are advised, applicable to the budget so prepared. That saving clause is subject to the proviso that such rules, financial arrangements, &c., shall be and remain in force so far as they are not inconsistent with the provisions of the new Act. Government is, however, advised that a budget prepared under the old Act is inconsistent with the provisions of the new Act, and therefore it is not validated by the saving clause. In these circumstances it becomes necessary to remove the serious administrative difficulties which have been occasioned, and the Bill which I am about to ask your leave to introduce provides that fees shall continue to be levied under the provisions of the old and repealed Act IV of 1883, up to the close of the present financial year; in other words, that the fees which were levied from jute warehouses under the old Act shall continue to be levied for the current year. So far as the levy of fees is concerned, the new arrangements sanctioned under the new law will therefore only come into force from the 1st of April next.

"The third reason for amending the Act is to be found in the absence of any provision in Act I of 1893 for enforcing compliance by the Municipalities concerned with an order passed by the Local Government under section 23 directing them to supply funds for the maintenance of the Fire-Brigade. Now the principle of Act I of 1893 is this, that the Municipal Commissioners are primarily responsible for the provision of funds for the maintenance of the Fire-Brigade according to the budget estimate duly prepared and sanctioned under the Act. In order to enable them to obtain funds for this purpose, they are

empowered, first, to levy fees on licenses granted to jute and other warehouses under the restrictions imposed in the Act. Those fees shall not exceed one-half of the total estimated cost of the Fire-Brigade for the year. For the raising of the remainder of the funds required, the Commissioners are authorised to impose rates both on bastis and on the general rate-payers, and if those rates are found insufficient to pay the cost of the Fire-Brigade, the responsibility rests with the Municipal Commissioners to provide such other sums as may be required, but the law gives no power to the Government to enforce such responsibility. The Act contains a clause requiring the Commissioners to pay, as I have said, but in default of their doing so there is no means of insisting upon their compliance. It is proposed therefore to introduce a clause in the amending Bill, the spirit of which is taken from section 64 of the Mufassal Municipal Act, which authorises the Local Government, in the event of default, to direct the person having the custody of the Municipal Fund to make payment forthwith from the Municipal Fund. These remarks explain briefly the necessity for introducing this amending Bill, and I now beg formally to ask for leave to introduce it in this Council."

The Motion was put and agreed to.

The HON'BLE MR. COTTON said:—"It will be apparent from the remarks I have just made that it is very necessary that no time should be lost in considering the provisions of this Bill; and to enable me to refer it to a Select Committee, in order that its clauses may be eventually considered in this Council and passed with the least possible delay, I find it necessary to ask you, Sir, to be good enough to suspend the Rules of Business, in order that I may move that the Bill be read in Council, and with that view a copy of the Bill, together with the Statement of Objects and Reasons, has this morning been circulated and placed in the hands of hon'ble members."

The HON'BLE THE PRESIDENT said:—"I consider that sufficient reasons have been adduced for suspending the Rules of Business, and I therefore suspend them."

The Motion that the Bill be read in Council was then put and agreed to.

The Bill was read accordingly.

[*Mr. Cotton; Mr. Bonnerjee.*]

The HON'BLE MR. COTTON said:—"Ordinarily a Bill is not introduced and referred to a Select Committee on the same day, but as I have said no time should be lost in this matter, and I therefore propose that the Bill be referred to a Select Committee. With your permission I will slightly modify the names specified in the List of Business. It is obviously desirable that the HON'BLE THE ADVOCATE-GENERAL should be a member of the Select Committee, but his name has been omitted by an oversight. I understand that MR. WOMACK, whose name is entered as a member of the Select Committee, will be absent from Calcutta during a portion of the time when the Committee will sit, and with his consent I desire to omit his name and insert the name of the HON'BLE SIR JOHN LAMBERT, who was in the Select Committee when the original Bill was considered. The Select Committee will then consist of the HON'BLE THE ADVOCATE-GENERAL, the HON'BLE SIR JOHN LAMBERT, the HON'BLE MR. BOURDILLON, the HON'BLE BABU SURENDRANATH BANERJEE, the HON'BLE MR. STUART and the Mover."

The HON'BLE MR. BONNERJEE said:—"I do not think the Bill in its present form ought to be sent into Committee. Section 4 of the Bill introduces a new principle. It may be quite true, as the hon'ble member has told the Council, that it has been taken from the Bengal Municipal Act, but it is new as regards this Bill. I for one have been taken rather by surprise, because it seems to me there is no urgency with regard to this new principle proposed to be added to section 23 of the Act, and we ought to have time to consider it. Besides if it is desired really to add to the Bill a clause embodying the new principle, it seems to me that the clause as it stands is insufficient, and will not, as I read it, be of the service which the hon'ble member thinks it will, without the addition to it of other words. I have not the Act itself before me which it is intended to amend, but unless there is some provision in it dealing with the matter, the person having the custody of the Municipal Fund may omit to make the payment he is called upon to make and not suffer any penalty for doing so. It will, therefore, be necessary to add some words in the section, making it compulsory on such person to obey the order of Government; and further, when that has been done, you should give the person who is required to obey the order of Government some indemnity against his employers, the Municipal Commissioners; otherwise such person might find himself in an uncomfortable

position. I repeat that this section introduces a question of principle of some importance, and as the members of the Council have not had an opportunity of considering it, and as there seems to be no urgency for passing this provision in a hurry, I would respectfully suggest that the Bill be referred to a Committee without this particular section, a separate Bill being brought in afterwards for the purpose. For the purpose of correcting an administrative difficulty, there can be no harm in passing a Bill without following very strictly the ordinary procedure, but I do think that it is desirable that sufficient time should be given to consider a provision of this kind. I am not in a position at present to say whether the power proposed to be given by the proposed section 23A ought to be given or not."

The HON'BLE THE PRESIDENT said:—"I have listened with attention to the hon'ble member's remarks, and I must say that I think those remarks are out of order and cannot be considered at this stage. The motion before the Council must be taken as a whole. This is not the stage a which any motion can be considered that a particular section should be left out."

The Motion was then put and agreed to.

BENGAL SANITARY DRAINAGE BILL.

The HON'BLE MR. LYALL moved for leave to introduce a Bill to facilitate the construction of drainage works for improving the sanitary condition of local areas. He said:—

"The Bill which I ask leave to introduce is the result of the fourth resolution come to at the Conference, known as the Belvedere Conference, on the 18th July, 1892, which runs as follows:—'that when an application is made to Government on the part of the inhabitants of any tract where malarial fever prevails, or when it is notorious that there is a high rate of mortality due to the want of drainage, provision shall be made by law for ascertaining the wishes of the majority of the inhabitants or owners of property concerned; and if the majority support the scheme, the Government shall be empowered to carry out comprehensive schemes of drainage, and to raise from the area affected such funds as may be necessary for meeting the cost of such schemes.'

[*Mr. Lyall.*]

"When the proceedings of that Conference were circulated, the following was added :—'The greater part of this resolution was agreed to unanimously, but there was some difference of opinion on the question whether the District Board should be taken to represent the wishes of the inhabitants of the tract of country affected by a drainage scheme, or whether special provisions should be introduced for the purpose of recording the votes of the population who would have to contribute towards the cost.' The former view was carried by a considerable majority.

"The necessity for such regulations has since been strongly emphasized by the results of the census, which have been summarised in an article in the *Calcutta Review* by the Collector of Bankura, Mr. Barrow, and his article has again been summarised by Mr. Dutt, the Collector of Burdwan, in a letter which he recently wrote to the *Englishman*. I ask leave to read a small part of that letter to the Council as describing the objects which the Government have in view in introducing this Bill. He says:—'A paper which appeared in a recent number of the *Calcutta Review* from the pen of Mr. Barrow, Collector of Bankura, on the *Census and the Decline of Bengal* deserves public attention. The facts which he sets out at the commencement of the article are sufficiently alarming. Rangpur and Dinajpur have become unhealthy within the memory of living men. Two thanas in Malda have lost three per cent. of their population in ten years. In Rajshahi 'the spectacle of whole villages depopulated by growing mortality was almost universal.' In the west of Pabna 'many villages are relapsing into complete jungle.' In Jessore 16 thanas have lost six per cent. in population. In Nadia three out of its four subdivisions show decrease in population. Murshidabad fares no better. Burdwan shows a decrease in spite of the coal and pottery industries of Raniganj. The whole of the centre of Midnapur is in a declining state. Mr. Barrow sums up 'that the condition of Bengal proper is that all the old parts are in a state of more or less decay, while prosperity and improvement are found only in the rich alluvial eastern districts and in the parts of the western districts where new land is being broken up.'

"These were the facts brought before us by the results of the census, and they have long been before the Government, having been brought before Government by various distinguished members of the community, particularly those who live in Hooghly and Burdwan. It was the opinion of the Belvedere

Conference, and that opinion is again brought forward by Mr. Dutt, that much of these disastrous results were due to the silting up of old drainage channels in Bengal. In the eastern districts these channels still remain, but in the Central and part of the western districts many are silted up, and it is the opinion of many that the opening of these channels will materially improve the health of the people. I think the Council will admit that if this result can be obtained by legislation, there can be no doubt that such legislation should be introduced. The Bill, I have now the honour to introduce, is founded upon the Bengal Drainage Act. It has not been considered, or published, or placed in the hands of Members of Council. It has merely been put together by the Legislative Department, and I now place it before you for your consideration."

The Motion was put and agreed to.

The HON'BLE MR. LYALL also applied to the President to suspend the Rules of Business.

The HON'BLE THE PRESIDENT having declared the Rules suspended—

The HON'BLE MR. LYALL moved that the Bill be read in Council.

The Motion was put and agreed to.

The Bill was read accordingly.

CALCUTTA TRAMWAYS AGREEMENT BILL.

The HON'BLE BABU SURENDRANATH BANERJEE moved for leave to introduce a Bill to give effect to an agreement made between the Corporation of Calcutta and the Calcutta Tramways Company, Limited. He said:—

"The history of the Bill might be summarised as follows:—In April last the Calcutta Tramways Company represented to the Calcutta Corporation that their finances were in a bad way; that they had not been able to pay any dividend for some time; and that, unless some concessions were made to them, they would be compelled to stop the service. Negotiations were opened, and the matter was thoroughly gone into by the Corporation, and the Corporation felt that the Tramways Company was doing an important service,

and that a discontinuance of that service would be a great hardship to a large section of the public, and that, having regard to their financial position, it was necessary to make some concessions. Accordingly, at a meeting of the Commissioners held on the 4th May, 1893, the following resolution was adopted by a large majority of the Commissioners:—'That the track rent per mile be fixed at the present rates up to the end of the 21st year of the present agreement, and that a remission of Rs. 15,000 a year be granted for five years with effect from 1894, subject to the condition that the dividends declared by the Tramways Company do not exceed $3\frac{1}{2}$ per cent. per annum during that period, and that the Company undertake not to stop the running of the cars without the previous consent of the Commissioners. That if the above terms be accepted by the Company, an agreement be drawn up modifying the existing agreement, and providing for the Company's continuous working hereafter under a new term.' This resolution introduced three modifications of a very important character in the existing agreement. The old agreement, which the present Bill proposed to amend and modify, was that of 1879, which formed the subject of legislative enactment, and the agreement itself was contained in a schedule of Act I of 1880. The modifications were of a three-fold nature. In the first place the Commissioners decided to give up the periodical enhancement of rent to which they were entitled under the 1879 agreement, and definitely decided to accept, as fixed rent, the track rent then being paid, with effect from the 1st January, 1894, to 31st December, 1899. In the second place, the Commissioners agreed to remit yearly for five years Rs. 15,000, unless in the meantime the finances of the Tramways Company were so far improved that they were able to declare a dividend of more than $3\frac{1}{2}$ per cent. These conditions represented the sum and substance of the concessions made by the Corporation. The Tramways Company on their side agreed to a *quid pro quo*. They agreed not to discontinue running the cars upon any of the existing lines, or on any lines which may be hereafter opened, except with the sanction of Commissioners. The terms of the resolution have been embodied in an agreement, but there is a legal difficulty in the way. The rate of the track rent is a part of a legislative enactment, and is embodied in the schedule to Act I of 1880; therefore, it is necessary to change the law. To make assurance doubly sure, the Commissioners took legal advice, and Mr. Stokoe gave the following opinion about the matter:—'In my opinion the Corporation are not authorised to make an alteration in the

rent payable under the old agreement of 1879, without the sanction of an Act empowering them to do so.' Nor is this all. The Act of 1880 does not contain any provision which would empower the Commissioners to enter into an agreement such as now has been entered into, by which they can compel the Company to run their cars upon any line after service had been once begun. These are the reasons for the motion which I have the honour to make. The motion does not involve any great or important principle. It only involves, and that in an indirect manner, the acceptance by this Council of the agreement between the Corporation and the Tramways Company in regard to a matter about which it must be conceded on all hands that the Corporation is the best judge."

The Motion was put and agreed to.

The Council adjourned to Saturday, the 24th February, 1894.

CALCUTTA;
The 13th February, 1894.

GORDON LEITH,
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

Reg. No. 905C—206—21-2-94.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 *and* 1892.

The Council met at the Council Chamber on Saturday, the 24th February, 1894.

Present:

The Hon'ble Sir Charles Alfred Elliott, K.C.S.I., Lieutenant-Governor of Bengal, *presiding.*

The Hon'ble Sir Charles Paul, K.C.I.E., *Advocate-General.*

The Hon'ble T. T. Allen.

The Hon'ble H. J. S. Cotton, C.S.I.

The Hon'ble Sir John Lambert, K.C.I.E.

The Hon'ble Gonesh Chunder Chunder.

The Hon'ble D. R. Lyall, C.S.I.

The Hon'ble J. A. Bourdillon.

The Hon'ble Maulvi Abdul Jubbar Khan Bahadur.

The Hon'ble F. R. S. Collier.

The Hon'ble C. E. Buckland.

The Hon'ble Maulvi Syed Fazl Imam Khan Bahadur.

The Hon'ble Maharaja Ravaneshwar Prosad Singh Bahadur of Gidhour.

The Hon'ble Surendranath Banerjee.

The Hon'ble L. Ghose.

The Hon'ble Maulvi Serajul Islam Khan Bahadur.

The Hon'ble J. G. Womack.

The Hon'ble Maharaja Jagadindra Nath Roy of Nator.

The Hon'ble J. N. Stuart.

ALLEGED ILLEGAL ORDER AFTER ACQUITTAL.

The Hon'ble Babu Surendranath Banerjee asked—

Has the attention of Government been called to the case of Probhat Chunder Nag of Barudea, in the Dacca district, in which the said Probhat Chunder was convicted in April or May last of an offence under section 174 of the Indian Penal Code, for non-attendance in obedience to an order from a public servant, and sentenced to simple imprisonment for two weeks and a fine of Rs. 200, by Babu Khetter Gopal Roy, Deputy Magistrate of Tippera; (2) whether there is any truth in the report published in the newspapers that

[*Babu Surendranath Banerjee; Mr. Cotton.*]

the prosecution against Probhat Chunder was revived by the District Magistrate contrary to law, after the said Probhat Chunder had been discharged, such discharge in a summons case having the force of an acquittal; (3) whether the District Magistrate, who was not trying the case, had recorded an order to the effect that the Deputy Magistrate was not to pass final orders without letting him (the District Magistrate) know of it; (4) whether this order is to be found in the order-sheet with the records of the case, and (5) whether the Deputy Magistrate before passing sentence said in open Court:—

"The District Magistrate does not consider a fine to be an adequate punishment in a case like this"?

Will the Government make an enquiry into the aforesaid allegations and lay the result of such enquiry on the table?

The Hon'ble MR. COTTON replied:—

"The answer to the first part of the question is yes: the attention of Government was drawn to the case by an article which appeared in the *Bengali* newspaper in September last, and an enquiry was then made into the facts.

"The answer to the second part of the question is No: it is not the fact that the prosecution against the person referred to was revived contrary to law.

"With regard to the other questions, I have to say that the Officiating Lieutenant-Governor did not at the time consider that the matter called for further notice, and the Government is not now prepared to re-open the subject."

HARASSMENT OF VILLAGERS BY SOWARS.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Is the Government aware that, notwithstanding any action the local authorities may have taken, the mounted *Sowars* of the 8th Bengal Cavalry still continue to harass the people of Meheshtolah and the neighbouring villages in the 24-Parganas by cutting and taking away by force *ooloo* grass, sugarcane, &c., belonging to the villagers, and that, notwithstanding the action of the local authorities, these proceedings have been repeated from year to year for some time past, and that in former years the raiyats had sometimes taken the law into their own hands?

[*Babu Surendranath Banerjee; Mr. Collier; Mr. Bourdillon.*]

Whether, under these circumstances, the Government will order an enquiry o be made into the truth of the above allegations, and take such action as may e deemed necessary to prevent a recurrence of these proceedings?

The Hon'ble MR. COLLIER replied:—

"In December last I received a petition from certain villagers that the avalry grass-cutters had cut some *ooloo* grass of theirs; this was inves- gated and there was reason to believe it was true. I therefore communicated ith the Officer Commanding the Cavalry, and he undertook to give orders reventing the recurrence of anything of the sort. Since then no further omplaint has been made to me, and I am not aware that any further occasion r complaint has arisen. As far as I have been able to ascertain, the petition eferred to is the only complaint of the kind received from the inhabitants f the locality in question. If any persons are aggrieved they must know that ey will obtain redress by laying their complaint before the Officer in charge f the Sadar sub-division or before myself as Magistrate of the district."

MUNICIPAL GRANTS TO ENGLISH SCHOOLS.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Will the Government lay on the table a statement showing the grants ade by municipalities (excluding Calcutta) to English schools in Bengal for e last five years, the grant for each year being shown separately?

The Hon'ble MR. BOURDILLON replied:—

"The answer to this question will be found in columns 7, 8 and 19 of ppendix I to the Resolution on the working of the Bengal Municipalities for 892-93, and in corresponding statements in those for previous years. Those esolutions have been published in the Government Gazette, and are obtainable y the public. The figures are as follows:—

		Rs.
1888-89	... ...	48,360
1889-90	... ...	47,121
1890-91	... ...	51,446
1891-92	... ...	53,947
1892-93	... ...	31,480"

ALLEGED EMBEZZLEMENT OF MUNICIPAL FUNDS.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

(*a*) Is it a fact that from 1884 to 1890, while the administration of the Dinajpur Municipality was in the hands of the Magistrate-Chairman, the Examiner of Local Accounts had occasion very frequently to find fault with the accounts of the Municipality, and to draw the attention of the municipal authorities to the laxity and inefficiency of supervision in respect of the accounts?

(*b*) Is it a fact that before and without making a thorough enquiry into the defects pointed out by the Examiner of Local Accounts, some of the documents essential to such an enquiry were destroyed as useless record, owing to which the enquiry that was instituted by the non-official administration of the Municipality in 1891 could not be carried back by the Local Auditors beyond April, 1890?

(*c*) Is the Government aware that as the result of this enquiry a sum of money, amounting to about Rs. 1,500, has been reported by the Examiner of Local Accounts to have been embezzled by the late Tax-Daroga of the Municipality within the space of about 15 months from April, 1890, to July, 1891?

(*d*) Is the said Tax-Daroga now in Government service, employed in the Police Department, notwithstanding that a special Committee, appointed by the Commissioner of the Division to enquire as to his fitness to remain in Government service, recorded a finding against him, one member alone dissenting from such finding?

(*e*) Will the Government enquire into the above allegations and take such action as may be necessary to secure the Municipality against the loss which it has sustained?

The Hon'ble MR. BOURDILLON replied:—

"The Government has no information on the subjects mentioned by the hon'ble member in clauses *a*, *b*, *c* and *d* of his question. In reply to the last clause, I have to say that the Government will not order an enquiry into these matters, as the law places them within the cognisance of the Commissioner of the Division."

[*Mr. Cotton.*]

LICENSED WAREHOUSE AND FIRE-BRIGADE ACT, 1893, AMENDMENT BILL.

The Hon'ble MR. COTTON presented the Report of the Select Committee on the Bill to amend Bengal Act I of 1893 (Licensed Warehouse and Fire-Brigade Act). He said:—

"It is a matter of great satisfaction that the Committee on this Bill have been able to present a unanimous report. We discussed the provisions of this amending measure very fully and carefully amongst ourselves, and I must say that it is mainly in consequence of the conciliatory attitude assumed by the Member of this Council who represents the Chamber of Commerce and the important jute interest, which is more materially affected by the provisions of the Bill, that we were able to come to so satisfactory a conclusion. The Council are aware that the necessity for amending the Licensed Warehouse and Fire-Brigade Act, which existed last year, was due to the fact that for many years past the whole cost of the fire-brigade had been borne by the jute industry in Calcutta; and not only the whole cost of the brigade, but a considerable sum besides, which was, with the permission of Government, appropriated by the Corporation of Calcutta for general municipal purposes. It was a great grievance with the jute industry that they should be so charged, and it was to relieve them of what was recognised by the Government as a legitimate grievance that Act I of 1893 was passed. The object of the Act was to apportion the burden of bearing the cost of the fire-brigade partly upon the general ratepayers, and partly upon the owners and occupiers of warehouses in which specially inflammable materials are stored. It was hoped that the law would come into force from the beginning of the year which is now drawing to a close, but there was some unavoidable delay in the Bill passing into law, and as a matter of fact, the commencement of the law dates from the 28th of June last. Therefore, it is that the jute industry is liable to pay the whole cost of the fire-brigade up to that date only. But, as I explained to this Council at our last meeting, practical difficulties exist in giving effect to the intention of the Legislature, and it was found necessary to introduce the present amending Bill, which declares that the jute industry shall continue to pay, during the whole of the current year, the cost of the fire-brigade; in other words, licenses will be taken out for the current year on payment of the same fees as were leviable under the old Act. The jute

industry of Calcutta have met the Government in a very friendly manner on this occasion, and no objection has been raised by them to the amendment which the present Bill proposes.

"In regard to the changes introduced by the Select Committee, I need not detain this Council long. We thought it undesirable that there should be any mention in the licenses of paying by instalments. It was thought desirable that the payment of the fees should in all cases be made in advance; and as the payment of the fee is a condition under which licenses are granted, the effect of the change which the present amending Bill introduces is that the payment of the fees shall be a condition precedent to the grant of the license. This was agreed to by all members of the Select Committee as tending to facilitate administration. Then we have introduced a small amendment in section 5 of the existing Act in order to protect the interests of old warehouses, the owners or occupiers of which are entitled to obtain licenses from the Commissioners on payment of the fees prescribed. As the law stands, this privilege would be granted only to warehouses in existence at the commencement of this Act, but owing to the fact that in many instances the licenses of old warehouses have not been granted during the current year, and therefore were not in existence on the 28th June last, it was thought necessary to introduce a verbal modification into section 5 in order to protect those old warehouses and give them the privileges which the law provides. Then we have thought it proper, in order to protect the interest of the Municipal Commissioners, to suspend the repeal of section 347 of Act II of 1888 and section 261 of Act III of 1884, until the close of the current financial year. By Act I of 1893 it is not only warehouses in which jute is stored that become liable to assessment under the Fire-Brigade Act, but many other commodities will be stored in warehouses for which licenses will have to be taken out under that Act. Many of these commodities are now taxed by the Commissioners under the sections of the Municipal law which empower the Commissioners to impose taxes upon obnoxious trades and dangerous professions. This power of special taxation has been withdrawn by the Fire-Brigade Act, but as the Act in regard to the assessment and levy of fees will not take effect until the 1st of April next, it was thought fair and reasonable, in the interests of the Commissioners, that they should continue to exercise the special powers they possess under the Municipal Acts for the whole of the present year.

[*Mr. Cotton.*]

"Lastly, the Select Committee, after considerable deliberation, agreed to omit section 23 of the Draft Bill as presented to the Council. That section, you will remember, was proposed in order to give the Government power to insist upon the Commissioners making payment of any sum due from them in the event of their default. The reasons why it was thought necessary to introduce that section were explained by me at our last meeting, and these reasons, as far as they go, still exist. But it was represented at our discussions that the provisions of section 64 of the Bengal Municipalities Act already sufficiently empowered the Government to insist upon Mufassal Municipalities paying in money demands due from them to the Government. That undoubtedly is the case. In regard to the Calcutta Municipality, the Government has, under the existing law, no such powers, and in the Bill as originally drafted that power would have been given to it. But it was urged that there was no reason to suppose that the Calcutta Municipality would be likely to fail in its duty, or to neglect to make payments imposed upon it by law. Now it seemed to the Committee that this was a reasonable contention to take up. It is not the case that the Calcutta Municipality has ever failed to meet any pecuniary demand which has been made upon it by the Local Government, and I do not think that this Council is justified in assuming that there will be any similar default in future. We were assured in Select Committee by the Hon'ble Member who represents the Municipality in this Council that there would be no risk whatever of such failure or neglect. For my part I too am inclined to believe that such will never be the case, but if there be such failure or neglect, then the Government will know how to act, and it will become necessary to resort to legislation for the purpose. I trust, therefore, that the Council will agree to the omission of this section from the Bill now laid before it. The Select Committee considered the question very carefully, and with some hesitation it was agreed to omit it, but eventually our view on the subject was unanimous. I need not trouble the Council with any further remarks in regard to this small measure. I trust it will be accepted by this Council without demur and without objection, and that, as the measure is urgent, in the interests of this Municipality and in the interests of the public, it will be found possible to pass it at this meeting of the Council."

The Hon'ble MR. COTTON moved that the Report of the Select Committee be taken into consideration by the Council, and that the clauses of the Bill be

considered for settlement in the form recommended by the Select Committee. He said:—

"I have so fully discussed these clauses in the speech which I have just made in laying the Report of the Select Committee on the table that I think it unnecessary to trouble the Council with any further observations."

The Hon'ble THE PRESIDENT said:—"I observe that there are no amendments on the List of Business proposed by any member with regard to any sections of the Bill. Under the rules we can either discuss the Bill, clause by clause, or we can take the Bill as a whole. If any hon'ble member wishes to discuss the clauses of the Bill separately or to discuss any clause in particular, I shall be prepared to meet his view; otherwise, I propose to put the motion that the Bill be passed at once. There being no desire for discussion, I put the motion that the Bill, as amended by the Select Committee, be passed into law."

The Motion was put and agreed to.

BENGAL SANITARY DRAINAGE BILL.

The Hon'ble MR. LYALL moved that the Bill to facilitate the construction of drainage works for improving the sanitary condition of local areas be referred to a Select Committee, consisting of the Hon'ble MESSRS. ALLEN and COLLIER, the Hon'ble BABU SURENDRANATH BANERJEE, the Hon'ble MR. GHOSE, the Hon'ble MAULVIS SERAJUL ISLAM and SYED FAZL IMAM, the Hon'ble MAHARAJA JAGADINDRA NATH ROY OF NATOR and the Mover.

The Hon'ble MR. GHOSE said:—"I venture to think that this is a somewhat hasty and ill-considered measure, and that it should not be further proceeded with until ample opportunity has been given to the public to express their views on it. It is a Bill which, if passed into law, would vitally affect the interests of all those who have anything to do with the land, from the zamindar down to the cultivating tenant. It is proposed to throw the entire cost of these experiments upon land-holders and cultivating tenants, although it is obvious that if these drainage works be as satisfactory and beneficial as you expect them to be, their benefits will not be confined to the classes that have been singled out for taxation, but will be shared in by the general

population. Under these circumstances, I should have expected that some opportunity would have been given to the classes interested to submit their views to the Government before it undertook to legislate in this direction. But the only prelude of the Bill was, as we were told by the hon'ble member in charge of the Bill, the Conference known as the Belvedere Conference, which was composed certainly of gentlemen for whom I have the highest respect, but who, with the solitary exception of Rajah Peary Mohun Mookerjee, could not be said to represent the landed interest upon which the whole burden was sought to be cast. It is, therefore, quite clear that the landed classes were conspicuous by their absence from that Conference, and that the only member of their body who was present dissented then and there from the conclusions which were arrived at. I think that under these circumstances they are entitled justly to complain that great issues affecting their interests have been decided virtually behind their backs and without giving them a hearing.

"But be that as it may, I desire to offer one or two observations in regard to the general character of the proposals made in this Bill. It provides for the carrying out of drainage works whenever the Local Government may have reason to believe that the sanitary condition of any local area may be improved by drainage. I certainly gratefully appreciate, if I may be permitted to say so, the humane and beneficent object which the Government has in view, but nevertheless I shall be compelled to oppose the Bill as it stands at present. No one will deny for one moment that a very virulent type of malarial fever is prevalent over large areas in Lower Bengal, and that the sanitary condition of many of those districts demands the serious attention of the Government, but we are no longer on such firm ground when we come to consider the causes which have led to a state of things which we all deplore, and the remedial measures which it may be desirable or expedient to adopt. For my part I freely admit that I am convinced, so far as I am competent to form an opinion on the subject, that defective drainage, or rather obstructions to the natural drainage system of the country, are greatly responsible for the origin of this epidemic fever. Any measure, therefore, which has for its object the restoration of the natural drainage system of the country must command my cordial support. But this Bill is entirely silent as regards the nature of the drainage works which are in contemplation. Is it surface drainage of the villages only, in

which case I entirely agree, or is it subsoil drainage of the maidans, paddy-fields, and bheels? Do you intend to act upon the lines indicated by the late Rajah Degambur Mitter, and to maintain unimpaired and unobstructed the natural drainage system of the Gangetic delta, from the villages to the arable lands, from paddy-fields to bheels, and from the bheels through khalls and water-courses to the navigable rivers which are their natural outfall. That was the position of the late Rajah Degambur Mitter; his theory was at the time very strongly combated and opposed by professional experts, but it is the only theory which at the present time holds the field; and if the Government contemplate nothing further than that, then I venture to say not a single voice will be raised against the proposal. But, as I have said, this Bill is very vague; it gives the Council no idea as to the nature of the schemes which may be carried out under it.

"There are other schemes of a less desirable character which may be covered by this Bill. Is it intended, for instance, to give effect to the recommendations of Mr. Adley in 1869, upon which the Government of the day placed considerable reliance when legislating on the subject in 1871 and in 1880; is it intended to follow up those recommendations and to embark upon such gigantic, costly, unpractical and mischievous enterprises as the subsoil drainage of maidans, paddy-fields and swamps, of which there are so many in every district in Bengal, which have existed ever since the formation of the Gangetic delta, and which throughout all these centuries have never produced the results which were attributed to them. No doubt there must be a certain amount of unhealthiness in certain seasons of the year in a country like Lower Bengal; hon'ble members are aware that almost the whole of Lower Bengal is more or less a swamp dotted and interspersed with villages lying upon comparatively higher ground, and that some unhealthiness should prevail in such a country immediately after the close of the rains is one of those normal climatic conditions from which there is absolutely no escape. The resources of science cannot succeed in altering the immutable laws of nature, nor can any amount of engineering skill succeed in transforming the climate of Bengal into anything like that of Europe. I am fully prepared to concede that the present Government has no such Quixotic scheme in view, but if this Bill is passed in its present form, what is there to prevent any future administration from giving effect to such recommendations? It is difficult to see; it is impossible to predict what the sanitary fad

of the future may be. You have tried many experiments in the past, and all those experiments have signally failed. For a number of years you waged a ceaseless war against jungle, shrubs, bamboo topes, aquatic plants, tanks and bheels, and what has been the result of all that misdirected energy? Total, dismal failure! While you succeeded in causing an indefinite amount of hardship and annoyance to the people, and serious mischief in some cases, such as the removal of aquatic plants from tanks and bheels, as has been tardily acknowledged by medical experts. History has a tendency to repeat itself, and I am, therefore, reluctant to support a vague enactment of this kind under which it may be open to any future administration to embark upon a series of costly enterprises fruitful not of benefit, but of mischief on the recommendation of some over-zealous district officer or some engineer burning to distinguish himself, more especially when I observe that it is proposed to throw the entire burden of the cost of the scheme upon the land-holders and raiyats who are to have no voice in the matter, while the Government do not propose to make any contribution towards the expense.

"There is another point in connection with this matter to which I wish to draw attention. There is absolutely no provision in the Bill so far as I have been able to see, giving any voice or option whatever to the holders of estates or raiyats, or a majority of them. Now I find that in the previous legislation on the subject, to which I have referred in another connection, namely, the first Drainage Act which was passed in the year 1871 (Act V), no action could be taken under the Act unless at least a moiety of proprietors concerned had signified their assent. Again, in the year 1880, in Act VI of that year, it was expressly provided that the Drainage Commissioners were to obtain the assent in writing of one-half of the holders of estates before adopting any such scheme. No such provision is made in this Bill. All that it provides for is this, that the previous assent of the District Board is required. That, I submit, most respectfully is a different thing altogether. The District Board may consist wholly or largely of nominated members, and it may not represent the raiyats or land-holders of the area concerned. On these grounds, I believe that the absence of any option to the whole area is a distinctly backward and retrograde step.

"I shall say one word more, and that is in reference to the financial proposals contained in the Bill.

"These proposals in regard to taxation seem to me, if I may say so respectfully, to be altogether unsound and indefensible. Before proceeding further, I would ask your Honour's permission to read a short extract from the Appendix to the Report of the Epidemic Commission, which gives facts as to these obstructions.

"The Report says:—

'The obstructions appear to have arisen chiefly from roads, and partly from embankments thrown up across khals for the purpose of fisheries. In like manner, the Eastern Bengal Railway and its feeders, when the same have crossed the water-courses of the villages lying on the eastern bank of the river Hooghly, and of others more inland, but situated to the west of the lines, have obstructed the drainage of those places; the fall of the villages lying on the eastern bank of the Hooghly, as I have before observed, being towards the east, and consequently Chogdah, Kanchrapara, Halisohur, and many similarly situated have suffered. I may here remark that the face of the country being perfectly flat, the drainage runs over the whole surface towards the direction of its slope, and consequently roads running transversely to it must of necessity intercept the drainage. But the East Indian and Eastern Bengal Railways are provided with capacious viaducts, wherever they have crossed, what appeared to the eye as water-courses; but these are in reality khals and other large streams which, as I have already observed, received the drainage in its flow from the villages over paddy-fields and bheels.'

"If this statement correctly represents the facts, it does seem to me to be utterly unjust to throw the whole or even a large portion of the cost of restoring the natural drainage system of the country on those who are not responsible for these obstructions, and who have themselves been victims of virulent malarial fever, which has been caused by the action of other parties. It seems to me indisputable that railway embankments, district roads, and railway feeders, so many of which have sprung up of recent years, are really responsible for these obstructions. It is also clear from this report that sometimes zamindars and raiyats are responsible for damming up khals and water-courses either for retaining water in the paddy-fields or for fishing purposes; and under these circumstances it seems that the only fair and equitable course is that the State should make a substantial contribution; that the Railway Companies who are so largely answerable for this state of things should also be made to contribute according to their responsibilities, and that private parties who have caused obstruction should come in for their fair share of the cost of removing the obstruction; and if after all this it is proposed to supplement the fund

by levying a rate upon land-holders and raiyats, I believe they will be patriotic enough to assent to such taxation without much murmur. But I venture to think that the Bill as it stands is open to very serious objections on the grounds I have briefly indicated, and which I feel bound to point out. I invite the Council respectfully so to shape its legislation that you may be able to carry public opinion along with you, that your laws may command a willing obedience, and that they may be welcomed by those for whom you are legislating. With these observations, Sir, if I am not out of order, I beg to move that, with the view of giving an opportunity to the public to express their opinion on the subject, this Bill be referred to the Select Committee this day, three months."

The Hon'ble MAHARÁJA JAGADINDRA NATH ROY OF NATOR said:—"I entirely agree with MR. GHOSE in thinking that the Bill in its present form should not be referred to the Select Committee to-day. I should like, however, to say one or two words with regard to the financial aspect of the question. The Bill provides that the zamindars will in the first instance have to pay the whole cost of the drainage works, and also that year after year they will have to pay a certain amount for the drainage and repair of those works. This seems to me to be rather inequitable, and it also seems to me to be to a certain extent an encroachment upon the permanent settlement; therefore it seems to me undesirable that this Bill in its present form should be referred to a Select Committee, and that it is desirable that sufficient time should be allowed to the public to express their opinion upon it."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I rise not to stand in the way of the amendment moved by my hon'ble friend. I think that in a matter of this kind public discussion is of the greatest possible importance. At the same time, speaking for myself, it is impossible for me to approach this Bill without feeling grateful to the Government for the benevolent intentions by which it was actuated in framing and introducing into this Council a measure of this kind. Opinions may differ with regard to the details of the measure. I myself have some objections in that direction. We may object to the financial clauses of the Bill; we may object to the proposal to levy a cess on the people; we may argue that in the present circumstances of the people, having regard to the heavy burden of taxation they have already to meet—a burden which is likely to be added to in the near future in view of the demands of the

Imperial Government—it will savour almost of criminality to impose an additional cess on the people, even for so necessary a purpose as that of sanitation. Some of us may hold that the assent or the dissent of the District Board is no reflex of popular opinion; it may be possible to devise a better machinery for ascertaining public opinion than what is provided through the medium of the District Board. With reference to these and other matters of detail opinions may differ, but I think all will agree that in this matter the Government has been animated by the purest and the loftiest motives, by the single-minded desire to secure to the rural population of Bengal, the inestimable blessing of health. I am a believer in drainage. If it is a fad, I am one of the faddists; but I am in excellent company, for I am supported by the experience of the highest medical authorities, whose opinions are entitled to the greatest weight. I presume it will be admitted that the Sanitary Commissioner of Bengal is the highest sanitary authority in a matter of this kind. Time after time he repeats the same tale; time after time he repeats the terrible record of mortality from malarial fever; time after time he appeals to the Government to introduce some practical measure of drainage to relieve the people from this frightful mortality and the terrible sufferings which follow in the train of that mortality. With Your Honour's permission I will read to the Council one or two extracts from the Report of the Sanitary Commissioner of Bengal. In the annual report for 1891 he says :—

'An examination of the vital statistics of the Province will show that fever claims by far the largest number of victims, the death-rate from this cause being nearly three-fourths of the entire death-rate of the Province: in fact, the enormous and increasing mortality from fever calls for serious attention and inquiry.

'During the year under report, 1,333,395 persons, representing a death-rate of 18·84 per 1,000 of the population, are reported to have succumbed to fever against 1,155,569, or 16·42 per 1,000 in the previous year.'

"We find the same tale repeated in 1888:—

'The annual death-rate from fevers is nearly three-fourths of the entire death-rate of the Province, or more than twice as much as the death-rate of all the other diseases put together; and when it is remembered that every death from fever probably represents twenty or more attacks, it may be imagined what a very large proportion of the population must have suffered during the year under review.'

"Now, what are the reports regarding the mortality of Calcutta? It is within our recollection that Calcutta used to be the hot-bed of malarious

fever, and people used to leave Calcutta for the Mufassal to recruit their health. Under proper sanitary arrangements Calcutta has now become a sanitarium; people leave the Mufassal to come to Calcutta to regain their health. The price of land in Calcutta has risen three-fold within the last few years. Ten years ago a *katta* of land used to be sold for Rs. 300; now you cannot buy a *katta* of land for less than Rs. 1,000. And what is the reason of this extraordinary rise in the price of land? It means an extraordinary demand on the part of people living in the Mufassal for land in Calcutta. Let me read a few facts in regard to the mortality of Calcutta, and compare it with the death-rate of the suburbs of Calcutta before the introduction of drainage and water-supply. In 1884, the death-rate of the Suburbs was 45·2 per mille; in 1884, the death-rate of Calcutta was 29·2. In 1885, the death-rate of Calcutta was 29·3; in the Suburbs it was 44·8. In 1886, it was 26·4 in Calcutta; in the Suburbs it was 40·5. In 1887, it was 26·9 in Calcutta; in the Suburbs it was 42·1. In 1889, it was 26·9 in Calcutta; in the Suburbs it was 42·4. And then when the Suburbs were amalgamated with Calcutta, we find a decrease in the death-rate in consequence of the sanitary improvements which were introduced. I have before me the figures of five years of the added area before the amalgamation, and of five years after the amalgamation. We find that the normal annual death-rate for the five years preceding the amalgamation was never less than 40 per mille, and that since the amalgamation it has never been more than 36·7. Therefore, having these facts before us, it is impossible not to hold that defective drainage is the cause of malarial fever, and that the surest means of removing malarial fever is the introduction of an effective system of drainage.

"But though I am prepared to accord my support to the principle of this Bill, I am not quite so sure about its financial clauses, and I would appeal to the Select Committee and the Council to reconsider those clauses by the light of the observations I desire to submit for their consideration. And I do not consider them an essential part of the Bill; they are an adjunct to the Bill, and might be safely dispensed with, and yet the principle of the Bill may be saved. If the Government is really anxious that the Bill should not be a dead-letter, that it should be a workable measure, and that it should be largely availed of by the local bodies, then the proposal to levy a cess for drainage purposes should be abandoned. Let me remind the Council of the character of the Bill. It is a measure of local option. It is entirely optional with the District Boards to

introduce it or not, just as they please. Now I ask, whether any local body with the smallest pretensions to a popular character would, of its own free will or accord, ask for or submit to a measure which involves the imposition of a fresh cess upon the people? Where then is the money to come from ? I say from the surplus balance of the provincial public works cess. The Hon'ble MR. BOURDILLON will, no doubt, tell me that there is no surplus balance, but notwithstanding the high authority of that gentleman, I am bound to hold that there is a considerable and an increasing surplus balance of the public works cess which ought to be devoted to the execution of such works as are contemplated under this Bill. Let me remind the Council, I will not say of the plodge, but of the distinct declaration made by the hon'ble member in charge of the Bill, when it was proposed to introduce the public works cess in Bengal. The Hon'ble MR. REYNOLDS, when he introduced the Public Works Cess Bill, said that, in obedience to the mandate which had been received from the Government of India, the cess was to be imposed in order to meet the interest on the capital outlay on some extraordinary public works and in connection with works undertaken for the prevention of famine. The hon'ble gentleman mentioned what these extraordinary public works were. They are the three great irrigational canals on the Sone, in Orissa and in Midnapur, andthe State Railways of Nalhati, Tirhut, Mutla and North Bengal. The calculations were made upon this basis. It was estimated that the interest charge on these works would amount to 22 lakhs, and the working charges to Rs. 1,50,000. Then it was calculated that 8 lakhs a year would be needed to meet the interest on the capital outlay on the railways ; 3 lakhs would represent the receipts from railways, and therefore 5 lakhs had to be provided to meet the interest on railways; in all 27 lakhs a year would be needed for these extraordinary public works.

"Then there were the famine works, and it was calculated that from 30 to 35 lakhs a year would be required to meet the charges of these extraordinary public works, and such works as might be needed for protection against famine. The surplus balance of the Public Works cess is, however, devoted to Ordinary Provincial Works. I maintain that it is not fair, it is not right, to go behind the declarations which were made in this Council, and to impose a tax which, in the words of JOHN STUART MILL, amounts to partial confiscation—a tax on the landed and agricultural interests for the sake of the public at large. These works benefit the whole community, but who are taxed—the landed and the agricultural

interests? To do so involves an utter violation of the principles of political economy and the ordinary considerations of justice. Let us read the words of the Hon'ble MR. REYNOLDS—words which he made use of in introducing the Public Works Cess Bill. He said:—

'It had been determined to render the Local Governments responsible for the cost and management of extraordinary public works, that was to say such public works as railways and works of irrigation which had been constructed with borrowed money and had not been paid for out of the revenues of the year.'

"Then, again, MR. REYNOLDS observed:—

'The Government of Bengal would take over the works as they stood, and would be responsible for the payment of simple interest on the capital outlay up to date and for the provision necessary for future working expenses.'

"I will make one other extract from MR. REYNOLDS' speech:—

'It had been laid down by the Government of India that it was necessary to introduce a system of provincial and local responsibility for the provision of local relief in the event of famine.'

"In this matter I claim to represent a large amount of public feeling. This question of sanitation was the subject of discussion at the meeting of the Bengal Provincial Conference, held in 1892, soon after the holding of the Belvedere Conference, and I hold in my hand an extract from a Resolution passed on that occasion. It was then resolved 'that this Conference, while deeply grateful to His Honour the Lieutenant-Governor for his earnest attention to the improvement of sanitation, would appeal to His Honour to devote the surplus balance of the public works cess to this purpose.' I think this Bill ought to be recast by the light of the observations which I have ventured to submit for the consideration of this Council. I wish to make one other observation before I conclude. If the representative character of the District Board is objected to, as it has been objected to by my hon'ble friend to my right (MR. GHOSE), why not adopt the procedure which we find in sections 12—14 of the Drainage Act of 1880? The Drainage Commissioners might write to the parties interested, inviting them within a certain time to submit, in writing, their views with reference to the project laid before them, and the matter should then be decided by a majority of the votes of those interested.

"Subject to these remarks and the right to move amendments so far as the financial clauses of the Bill are concerned, I accord my cordial support to the principle of the Bill. At the same time it seems to me desirable that facilities should be afforded for the public discussion of a measure which involves the imposition of a fresh cess."

The Hon'ble MR. ALLEN said:—"Before dealing with the principle underlying this Bill, I wish to make a passing observation. I am rather surprised at the inconsequence of the hon'ble member who has just sat down in objecting to the cost of improved sanitation being levied from the landed interest. As a proof of the valuable results of sanitation, he has informed us that the value of land in Calcutta which formerly fetched no more than Rs. 300 per *katta* has, in consequence of the diminution of fever, risen to Rs. 1,000 per *katta*. If the value of the whole of my land could be raised from Rs. 300 per *katta* to Rs. 1,000 per *katta* by proper drainage, I should not grudge the small taxation necessary to effect that result. This, however, is a mere observation in passing.

"According to the rules of procedure in this Council, it is on the motion to go into Select Committee that any objections to the principle of the Bill are to be brought forward, and that any discussion on the principle can be held. There are two assumptions underlying this Bill—*first*, that the fever which has proved so deadly in certain parts of Lower Bengal is due to impeded drainage; *secondly*, that it is possible to improve the drainage of those parts of the Province to such a degree as to put an end to the malaria which causes, or is supposed to cause, the fever in question. There is no member of this Council, and there is probably no member in the service in Bengal, who has a larger acquaintance with the malarial fever, commonly called the Burdwan fever, than I possess. It was first noticed in the year 1862, and in 1863 I was placed in charge of the Baraset subdivision, which at that time was the very worst spot for sickness and death from fever of any part of Lower Bengal, not excepting Burdwan itself. The people feared it; no one would live there. During the time I was there, a Commission was appointed to investigate into the causes of the fever. The Commissioner of the Presidency Division, Dr. Mouat, the Inspector-General of Jails, and Babu Degambur Mitter came to Baraset while I was there. They suggested certain causes for the fever, and it was then for the first time that Babu Degambur Mitter insisted upon impeded drainage as

being the cause of malarial fever. His notion was that the East Indian Railway running along one bank of the river and Eastern Bengal Railway running along the other bank intercepted the drainage of the country which otherwise would flow into the river Hooghly, and he originated the idea of intercepted drainage being the cause of malarial fever. There appear, however, to be two objections to that theory—*first*, it has never been shown that the water lying on one side of the embankment permanently varies in level from that on the other side; *secondly*, the surface water does not drain naturally towards the Hooghly, but away from it. I have personally discussed the matter many times, and have always had the greatest interest in the subject ever since. As a matter of fact, in all alluvial tracts of country the drainage does not run towards the river, but from it, because of the banks of rivers passing through the alluvial delta being invariably higher than the more inland country; consequently the railways did not obstruct the natural drainage of the country. It was then said—I believe Dr. Mouat was the originator—that though there is no evidence of the level of the water on one side of an embankment being different from the level of the water on the other, yet a great mass of solid material such as a railway embankment being deposited on a semi-fluid soil, like that of Lower Bengal, must compress the underlying strata so as to impede, if not the surface drainage, the sub-soil drainage of the country. That was 32 years ago. But I have not yet seen any proof that a well sunk on one side of a line of railway reached water at a different level from a well sunk on the other side of the line; consequently if the level of the water in the sub-soil is identical on each side of a line of railway, it is obvious that an embankment cannot impede the flow of the sub-soil water from one side to the other.

"So the matter rested when I left Baraset, and for a time the discussion on the subject of malarial fever practically ceased. Nearly ten years afterwards it was my fate to be in charge of the district of Birbhum, which runs northwards from the Adjai river along the side of the East Indian Railway up towards Rajmahal. From the banks of that river northwards, the soil is composed of undulating laterite with deep gulleys between, and it would be impossible to conceive or imagine any country more perfectly drained than the whole of that tract. Rain is absolutely incapable of lodging there; in the course of half an hour it disappears in flowing streams. Any person travelling by railway can satisfy himself, after crossing the river Adjai, how absurd the

idea of impeded drainage must be when started with reference to any influences affecting the health of the people of that country. In fact a large part of the railway has to pass through considerable cuttings. Well, in 1871-72, I was in charge of the Birbhum district, and at the time malarial fever was raging with renewed intensity in the Burdwan district, and the whole subject came up for consideration and discussion anew. The then Magistrate of Burdwan, summing up the matter, had nothing but a sneer to offer for all the theories which were propounded. The fever crossed the Adjai river; it decimated Sonool and Bulpore and that neighbourhood, and moved gradually up to the village of Purumderpore, six miles from the town of Sooree. I subsequently heard that it passed on and visited with equal fatality the town of Sooree and other places which had never known such fever. The then Commissioner, Mr. Buckland, naturally devoted considerable attention to discover the cause of the fever. My own attention was constantly fixed on the subject. The malarial theory, the obstructed drainage theory, was brought out again, but to attempt to account for fever in the Birbhum district on any such theory was absurd. The only conclusion Mr. Buckland could arrive at, as the result of his own examination into the subject, was that it was like a large fire which, wherever it found combustible material, burnt it up and then passed on. One of the most remarkable things was that the higher castes of the people invariably suffered—the Brahmins, the Kyasths and the Rajpoot caste—they were the victims; while the Bouries, Haris, Bagdees and other low castes escaped with impunity.

"For those reasons, after having had my constant attention directed to the subject, and being naturally anxious to ascertain some cause, I have been utterly unable to satisfy myself that this fever is in any special way connected with drainage or malaria. My conclusion was that it is mainly due to constitutional conditions; but I will not now detain the Council to enlarge on this theory. It is sufficient for me simply to draw attention to the uncertainty which hangs over the main assumption of this Bill, namely, that by improving the drainage of a tract of country we necessarily improve the health of the people. It may be so, but my own experience in Calcutta does not lead me to think so. After having run the gauntlet of the most malarial districts of Bengal, I gained experience in my own person of fever for the first time in the town of Calcutta, and this I will say that the fever of Calcutta is of a much more vicious and persistent type than any fever in the Mufassal. In fact improved drainage appears to give a

typhoid character to the most trifling fever. Therefore I think the passage of this Bill through the Council should not be hurried, and the suggestion that ample time should be given for discussion and consideration is reasonable in view of the doubts which exist as to the malarial theory being the correct one.

"But admitting that malaria is the cause of all this deadly fever, what is the remedy? Is it possible to improve the drainage of Bengal? I observe that there is no section in the Bill prohibiting the cultivation of rice in any area subjected to drainage and being improved. If rice cultivation is still to go on in a drained area, it is perfectly certain that the drainage must be practically inoperative. Is it contemplated that rice cultivation should cease? If so, the last stage of the people may be worse than the first, and it may prove a measure for starving men in order to save them from fever. The actual condition of things in Bengal renders anything like effective drainage absolutely impossible. When once the highlands of Western Bengal are left behind, the whole country from the Bhagirathi at Murshidabad to the hills of Tippera is covered with water varying from 5 to 15 feet for four months in the year. How can it be possible with that level of water over the whole country that any drainage worthy of the name can be effected? It is a curious fact also, but still well known, that the healthiest period of the year in these tracts is precisely when the drainage of the country is entirely blocked by this mass of water, and only after this water has run off that the effects of malaria are experienced.

"I offer these observations not in any way as final or as tying my opinion to any conclusion, but these are the opinions which have been floating in my mind for a long time with reference to this subject; and I think it necessary—at least there can be no harm in it—to lay them before the Council when the Bill is at its present stage, as this will be the only opportunity when these considerations can be placed before the Council."

The Hon'ble MAULVI ABDUL JUBBAR said:—"I beg to make one or two observations with reference to this motion. The fever which is said to be due to malaria and obstructed drainage has brought on misery and wretchedness in some of the districts of Bengal, which thirty years back were regarded as sanitaria, and I am unfortunately an inhabitant of one of those districts. There in the place of strong and nourishing food quinine and sago are the principal

articles of daily consumption. The fact was stubborn that the unhealthiness of these districts began shortly after the construction of railways in those places, and it is the general opinion that the railways have obstructed the drainage of the country. The object of this Bill is admitted by all to be a beneficial one, but at the same time I think it necessary that it should be ascertained whether the people are prepared to accept it in its present form. Therefore, I think that before referring the Bill to a Select Committee, a certain time should be allowed to the public for the consideration of its provisions."

The Hon'ble BABU GONESH CHUNDER CHUNDER said:—"It seems to me that there is no necessity for the proposed legislation. I admit, notwithstanding what has fallen from the Hon'ble MR. ALLEN, that the time has come when for the preservation of the lives and the health of the people of this Province an effective system of drainage is necessary by means of legislation. But the question is, have we not in our Statute Book a law now existing for that purpose, and has it been shown that the working of that Act has not attained the purpose for which it was enacted? If you refer to the Bill which has been circulated, you will find that almost all the provisions of this Bill have been taken bodily from Act VI of 1880. There are of course some objectionable provisions in it upon which I shall make some comments hereafter. The hon'ble member in charge of the Bill in introducing it did not even allude to Act VI of 1880, nor did he say anything to show that any attempt to put that Act into force has proved unsuccessful, or that its provisions did not answer the purpose for which the law was passed. Why cannot that Act be amended as the exigencies of the case may require? Why should we undertake new legislation on a subject on which we have already an exhaustive Act. I think it will be seen that this Bill incorporates the main features of the former Act with the exception of some of the important provisions which have already been alluded to by the hon'ble member on my left (MR. GHOSE). But it excludes the provision for ascertaining the views of those most interested in the proposed drainage system, namely, the owners of the properties in which drainage works are to be constructed. Under the existing law it is necessary for the Drainage Commissioners to obtain the assent in writing of one-half of the holders of the land which is to be drained, but this Bill entirely does away with their consent. It restricts the principle of local self-government, which exists in that Act; and in place of the consent of the owners of the lands to be

drained, this Bill gives the right of assent to the District Board. I am not sure that owners of lands in the country are prepared to delegate their authority in matters concerning their own pecuniary interests to the District Board. Under these circumstances it certainly seems to me that the present Bill is not an improvement on the existing law. There are no doubt objections on financial grounds against the provisions of Act VI of 1880, some of which have already been adverted to by hon'ble members who have already spoken. For these reasons I submit that, instead of proposing to pass a new law, steps should be taken to amend Act VI of 1880."

The Hon'ble MR. LYALL said:—"The substantive amendment before the Council is that of the Hon'ble MR. GHOSE, who proposes that the Select Committee shall not be appointed for three months to come. There is scarcely a word in the very able speech made by my hon'ble friend, in which I do not agree more or less, chiefly more; and if I thought any advantage would be gained by putting off the appointment of the Select Committee for three months, I would at once agree to it. But I think the provisions made in the Rules of the Council fully meet the wishes of the hon'ble member. The Rules provide that all communications made to the Government in connection with any Bill before the Council should be laid before the Select Committee appointed to consider the Bill; they also provide that a longer or a shorter time than the usual period of one month may be allowed for the consideration of a Bill by the Select Committee, and I very much doubt whether the object of the hon'ble member will be in any way forwarded by the adoption of his amendment. I think it is far more likely that public bodies, and people generally will submit their opinions on a Bill which is actually before the Council, than upon one which was practically shelved for three months. I am as anxious as the hon'ble member himself for a full public discussion of the provisions of this Bill. In introducing the Bill I said that it had been put together by the Legislative Department as the result of the Belvedere Conference, and that it does not pretend to fix the exact wording of the law: that is left to the Select Committee and afterwards to this Council to determine. I feel sure that every point put forward by my hon'ble friend will be dealt with by the Select Committee, and I have no doubt successfully. Among other objections the hon'ble member objected to the District Board being made the arbiter of the people. That point was decided by the majority of the Belvedere

[*Mr. Lyall; the President.*]

Conference, but I feel bound to say that I agreed with the minority; and should the Select Committee not accept it, they will be at liberty to reject it. The question of finance is another matter with which the Select Committee will deal.

"The Hon'ble BABU GONESH CHUNDER CHUNDER has contended that, instead of the Bill now before the Council, an amendment of the existing Drainage Act, VI of 1880, should be introduced, but that will have very much the same effect as the present Bill inasmuch as this Bill has been drafted almost entirely upon the model of that law, there being no other enactment on the subject. That Act, however, deals with small local areas which it was proposed to drain for the benefit of the zamindars and raiyats. It has nothing to do with the health of the people, and it does not deal with large areas, and I do not think anything will be gained by simply amending that Act.

"Then, with regard to the remarks which fell from the Hon'ble MR. ALLEN, I am personally at one with him in those remarks. I have seen malarial fever in tracts where there have been no roads or lines of railway to obstruct the natural drainage of the country. My own view is that the gradual upheaval of the country has naturally interfered with the old drainage channels. But that is a mere theory. Everybody agrees that malarial fever does require to be dealt with, and the great majority of medical opinion is that it is largely caused by the want of drainage. I hope that in view of these remarks the amendment which has been moved will not be pressed."

The Hon'ble THE PRESIDENT said:—"The Hon'ble MR. GHOSE asks leave to move an amendment of which notice has not been given, and under the Rules I permit the amendment to be laid before the Council. From one point of view I regret that the amendment has been moved in this form, because it creates the impression of disagreement where it is evident from what has fallen from all the hon'ble members who have spoken that no real disagreement exists. We are all anxious to give full opportunity for the expression of public opinion; we are all anxious that the provisions of the Bill should be examined with the utmost care and deliberation. The only point for decision is, which is the best step to take in order to secure the result we all desire? Are we likely to get the best consideration of the Bill by the public, and are we likely to get their views sent up in the fullest and completest

[*The President; Mr. Ghose; Babu Surendranath Banerjee.*]

form and in the shortest time, if the Bill is referred to a Select Committee at once, or if the reference to a Committee is postponed? I am inclined to agree with the hon'ble member in charge of the Bill that if it is actually before a Select Committee and is no longer a sleeping Bill, it will stimulate the submission of opinions, both of official and non-official members, and that their views and criticisms will be sent in sooner than would otherwise be the case. I say this on the simple ground that people are more inclined to give their mind to a subject when they feel that the time is limited than when they know the time is unlimited, and that it will make no difference whether they send in their representations to-day or three months hence. Therefore, on the whole, it seems to me desirable that a Select Committee should be appointed now, but that they should be instructed not to proceed with any haste, but to give sufficient time and to give all local and public bodies notice that an expression of their views was desired, and that their views on the subject of the Bill would be carefully considered. It should be understood that there will be no hurry, but that it is desired that the Bill should not be looked upon as a sleeping Bill, but that the Bill which is now in embryo should be brought to life within a reasonable time."

The Hon'ble Mr. Ghose said:—"After the observations which have fallen from the hon'ble member in charge of the Bill, I will ask permission to withdraw my amendment."

The Hon'ble the President said:—"I am glad to allow the amendment to be withdrawn, because any appearance of disagreement on the subject will now be removed."

The Motion was then put and agreed to.

CALCUTTA TRAMWAYS AGREEMENT BILL.

The Hon'ble Babu Surendranath Banerjee introduced the Bill to give effect to an agreement made between the Corporation of Calcutta and the Calcutta Tramways Company, Limited, and moved that it be read in Council. He said:—

"This is an amending Bill, consisting of only three sections. The object of the Bill is to legalise an agreement arrived at between the Corporation

and the Tramways Company. The Corporation is advised that the existing agreement being embodied in the schedule to an Act of the Legislature, it will be impossible to legalise any fresh agreement or alteration of the existing agreement except by legislative enactment. That is the *raison d'être* of this Bill, and these are the reasons for asking leave to introduce it."

The Motion was put and agreed to.

The Bill was read accordingly.

The Council adjourned to Saturday, the 10th March, 1894.

GORDON LEITH,
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

CALCUTTA;
The 12th March, 1894.

(By subsequent order of the President, the Council meeting was postponed to Saturday, the 17th March, 1894.)

Reg. No. 9826—300—14-3-94.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 *and* 1892.

The Council met at the Council Chamber on Saturday, the 17th March, 1894.

Present:

The Hon'ble Sir Charles Alfred Elliott, K.C.S.I., Lieutenant-Governor of Bengal, *presiding.*

The Hon'ble Sir Charles Paul, K.C.I.E., *Advocate-General.*

The Hon'ble T. T. Allen.

The Hon'ble H. J. S. Cotton, C.S.I.

The Hon'ble Sir John Lambert, K.C.I.E.

The Hon'ble Gonesh Chunder Chunder.

The Hon'ble D. R. Lyall, C.S.I.

The Hon'ble J. A. Bourdillon.

The Hon'ble Maulvi Abdul Jubbar Khan Bahadur.

The Hon'ble F. R. S. Collier.

The Hon'ble C. E. Buckland.

The Hon'ble Maulvi Syld Fazl Imam Khan Bahadur.

The Hon'ble Maharaja Ravaneshwar Prosad Singh Bahadur of Gidhour.

The Hon'ble Surendranath Banerjee.

The Hon'ble L. Ghose.

The Hon'ble Maharaja Sir Luchmessur Singh Bahadur, K.C.I.E., of Darbhanga.

The Hon'ble Maulvi Serajul Islam Khan Bahadur.

The Hon'ble W. C. Bonnerjee.

The Hon'ble J. G. Womack.

The Hon'ble Maharaja Jagadindra Nath Roy of Nator.

The Hon'ble J. N. Stuart.

NEW MEMBER.

The Hon'ble Maharaja Sir Luchmessur Singh Bahadur, K.C.I.E., of Darbhanga took his seat in Council.

[*Maharaja Jagadindra Nath Roy of Nator; Mr. Buckland.*]

AGE OF ADMISSION TO CLASSES BELOW THE FOURTH IN GOVERNMENT SCHOOLS.

The Hon'ble MAHARAJA JAGADINDRA NATH ROY OF NATOR asked—

Is the Government aware that the Director of Public Instruction of Bengal has, by a circular, directed the head-masters of all Government schools not to admit boys above the age of fourteen to classes below the fourth?

Is the Government further aware that the direction above referred to does not, according to another circular issued by the same officer, apply to Muhammadan boys?

If so, will the Government direct the withdrawal of the said circulars so as to remove all restrictions as to age?

The Hon'ble MR. BUCKLAND replied:—

"The Government is aware that so long ago as the 3rd May, 1889, the Director of Public Instruction issued the following circular:—

'A question having been raised as to the desirability of introducing a rule regulating the age at which boys may be admitted to zilla and collegiate schools, it is hereby notified that no boy who has attained the age of 14 years should be admitted to any class of a Government high school below the fourth, without the special sanction of the Inspector or the Principal, as the case may be. The permission would ordinarily be given as a matter of course to boys who come with middle vernacular scholarships.'

"The Government is further aware that on the 5th June, 1891, the following circular letter was issued by the Director of Public Instruction to all Inspectors of Schools and Principals of Colleges:—

'It is no doubt well known to you that the age at which Muhammadan boys commonly join schools for general education is later than the corresponding age for Hindu boys. It was observed by the Education Commission:—"Before the young Muhammadan is allowed to turn his thoughts to secular instruction, he must commonly pass some years in going through a course of sacred learning. The Muhammadan boy, therefore, enters school later than the Hindu." In the orders communicated with my Circular No. 54, dated the 3rd May, 1889, it was notified that no boy, who had

[*Mr. Buckland; Maharaja Jagadindra Nath Roy of Nator; Mr. Bourdillon.*]

attained the age of 14 years, should be admitted to any class of a Government high school below the fourth, without the special sanction of the Inspector or the Principal, as the case might be. The foregoing considerations will show that a relaxation of the rule may often be fairly permitted in the case of Muhammadan boys, especially where there is no high school under private management in the neighbourhood.'

"The object of these circulars is to secure that boys in the same class should be approximately of the same age, as all educational authorities know that it has a bad effect to mix up clever little boys with stupid older boys in the same classes. But an exception is made in favour of Muhammadans, because they generally begin their English studies later in life, and the rigid application of the rule would have the effect of preventing many of them from receiving any education in Government schools.

"Government is satisfied that the orders were judicious, and required by considerations of discipline and morality, and that they have proved successful in working. Government has therefore no intention of directing the withdrawal of one or the other, or both, of the circulars."

NON-OFFICIAL CHAIRMEN OF DISTRICT BOARDS.

The Hon'ble MAHARAJA JAGADINDRA NATH ROY OF NATOR asked—

Will the Government consider the expediency of appointing non-official Chairmen to District Boards when competent persons are available, and make an experiment in a few advanced districts?

The Hon'ble MR. BOURDILLON replied:—

"The question which the hon'ble member has asked the Lieutenant-Governor to consider is one which was very fully and elaborately discussed when the introduction of Local Self-Government into Bengal was under consideration in the years between 1881 and 1885. In paragraph 10 of a letter dated the 8th April, 1882, the then Lieutenant-Governor of Bengal, Sir A. Eden, stated his views in the following terms:—

'The Chairman of the District Board should be the Magistrate of the District. This is an indispensable condition. The District Officer is the

mainspring of the administration, and it is absolutely essential that his position should be upheld in its integrity. Experiments in Local Self-Government will be very valuable as a means of educating the people in the conduct of affairs, but they must not be allowed to weaken the framework of Government. In the day of trouble Government must look to its District Officers, and not to District Boards, to uphold its authority and carry out its orders. There is no reasonable doubt, moreover, that the great mass of the people would have no confidence in any system of management from which the head of the district was excluded, or in which he held a subordinate place, and that they would attach no prestige to a Board constituted under such a system.'

"A year later the Secretary of State, in a despatch dated the 5th July, 1883, in which he recommended the establishment of District Committees in place of the Central Board which had been suggested, recorded the following opinion on the propriety of placing the District Officer at the head of such a Committee:—

'The control of Government, if exercised by the District Officer acting as President of such a Committee, would be in the hands of one who ought to be intimately acquainted with the people, their feelings and their local politics, and with the resources and requirements of the locality, and who would be able without undue interference to guide the local bodies in the path of progress and give them the best education in affairs. There are, moreover, weighty political considerations in favour of maintaining the connection of the District Officers with local business. On them more than on any other officers of the Government the efficiency of our administration in India depends, and Your Lordship is, I feel sure, as anxious as I am that no steps should be taken which should diminish their legitimate influence and personal knowledge of the affairs of the districts entrusted to their care.'

"In the views thus expressed by these experienced statesmen the Lieutenant-Governor entirely concurs. No serious complaint has reached him attacking the present system, and the experience of the past has strengthened the opinion that the Chairman of the District Board ought to be the Executive Head of the district. The Board is practically a department of the Government to which certain items of the public revenues are entrusted for the purpose of carrying out the necessary expenditure on such important objects as the repair and construction of roads and bridges, the maintenance of primary schools and dispensaries,

[*Mr. Bourdillon; Maharaja Jagadindra Nath Roy of Nator; Mr. Cotton.*]

the evolution of sanitary projects, and so on. These duties cannot safely be entrusted to untrained hands, and cannot effectually be carried out except by the official who has control over all the Government establishments in the district. Holding these views, the Lieutenant-Governor is not prepared at present to sanction any deviation from the existing policy of Government."

APPOINTMENT OF RURAL AND SPECIAL SUB-REGISTRARS.

The Hon'ble MAHARAJA JAGADINDRA NATH ROY OF NATOR asked—

Will the Government lay before the Council a comparative tabular statement showing the numbers of Hindus, Muhammadans and Christians appointed every year during the last ten years (1) as Rural Sub-Registrars, (2) as Special Sub-Registrars?

The Hon'ble MR. COTTON replied:—

"The following statement, which answers the hon'ble member's question, has been compiled by the Inspector-General of Registration from the Bengal Civil Lists:—

Years.	Hindus.		Muhammadans.		Christians.	
	Special Sub-Registrar.	Rural Sub-Registrar.	Special Sub-Registrar.	Rural Sub-Registrar.	Special Sub-Registrar.	Rural Sub-Registrar.
1884	1	15	1	5	...	...
1885	1	9	3	10	...	...
1886	...	29	...	16	...	...
1887	...	8	3	6	...	...
1888	...	14	2	6	...	1
1889	1	6	...	7	...	...
1890	1	11	1	20	...	1
1891	5	9	2	12	...	...
1892	7	13	...	16	...	...
1893	4	19	1	16	...	1
Totals	20	133	13	114	...	3

"

[*Babu Surendranath Banerjee; the President; Sir Charles Paul.*]

CALCUTTA TRAMWAYS AGREEMENT BILL.

The Hon'ble BABU SURENDRANATH BANERJEE applied to the President to suspend the Rules of Business.

The Hon'ble THE PRESIDENT having declared the Rules suspended—

The Hon'ble BABU SURENDRANATH BANERJEE moved that the Bill to give effect to an agreement made between the Corporation of Calcutta and the Calcutta Tramways Company, Limited, be passed. He said:—

"I desire to point out, as I have more than once pointed out, that this Bill is merely of a formal character, the object being to give effect to an agreement arrived at between the Corporation and the Company. In asking the Council to proceed to pass this Bill without referring it to a Select Committee, I am fortified by precedent in connection with similar cases. I find that on the 16th December, 1876, the Hon'ble MR. BELL, in moving that a Bill to amend the Jute Warehouse Acts of 1872 and 1875 be read in Council, applied to the President to suspend the Rules, and moved that the Bill be passed, and the Bill was passed. There was a similar precedent in the proceedings of the 9th December, 1865, and also another similar precedent in the proceedings of the 9th May, 1868. In connection with this Bill, I desire to make one observation. I venture to suggest that the concluding words 'with the assent of the Governor General' be omitted from section 1 of the Bill, and I move that they be so omitted. No measure of this Council can become law except with the assent of the Governor General, but the retention of these words may give rise to the impression that two assents are necessary, *first*, the assent of the Governor General to the measure itself, and, *secondly*, His Excellency's assent to the publication of the Act in the Calcutta Gazette. There may be some objection if this double assent is not given, and it is suggested that the words which I have mentioned are redundant and should be omitted."

The Hon'ble SIR CHARLES PAUL said:—"I think section 1 is in the usual form in which Bills of this sort have always been enacted, and I do not see that there is any objection to it. The section does not require a double assent. As soon as the assent of the Governor General is given, it is published with the assent of the Governor General."

[*Babu Surendranath Banerjee; the President; Mr. Bourdillon; Mr. Ghose.*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I defer to the opinion of the learned Advocate-General, and ask leave to withdraw the amendment."

The Hon'ble THE PRESIDENT said:—"Before putting the motion to the vote that the Bill be passed, I have to propose a small verbal alteration to which my attention has just been drawn, namely, that the Bill is spoken of as an Act of the year 1893, whereas it is being passed in 1894. I move that the figures '1894' be substituted for '1893' in section 1 of the Bill."

The Motion was put and agreed to.

The Motion that the Bill, as amended, be passed, was also put and agreed to.

BENGAL MUNICIPAL ACT, III OF 1884, AMENDMENT BILL.

The Hon'ble MR. BOURDILLON moved that the final Report of the Select Committee on the Bill to amend Bengal Act III of 1884 be taken into consideration in order to the settlement of the clauses of the Bill.

The Motion was put and agreed to.

The Hon'ble MR. BOURDILLON also moved that the clauses of the Bill, as amended by the enlarged Select Committee, be considered for settlement in the form recommended by the Select Committee.

The Motion was put and agreed to.

The Hon'ble MR. GHOSE moved that in line 6 of the second proviso of section 4 of the Bill, for the words "of its own motion" the words "on the recommendation of the Commissioners at a meeting, or on an application by a majority of the registered rate-payers" be substituted. He said:—

"As this is the first amendment on the list, I may perhaps be permitted, before entering into the region of controversy and debate, to take this opportunity of thanking the hon'ble member in charge of the Bill for the unvarying courtesy, the spirit of conciliation, and the desire to meet us half way which characterised the hon'ble member throughout our protracted discussions in Committee. I may also venture to say on behalf of those

who represented the popular element in the Select Committee that we also honestly endeavoured to approach the discussion of the many controversial matters involved in the Bill, not in any spirit of factious opposition or of obstructive criticism, but in that same spirit of conciliation and compromise without which we felt it would be impossible to arrive at any satisfactory conclusion, and it was owing to this the hon'ble member in charge of the Bill, notwithstanding the fact that this Bill bristled with contentious matters, had the satisfaction of being able to say in the Report of the Select Committee that we have been practically unanimous in most of the recommendations embodied in the Bill. Unfortunately upon certain points we felt compelled to differ from the conclusions at which the majority had arrived, and we felt it our duty to give notice of amendments in regard to such matters, but it must not be supposed that all our amendments stand exactly on the same footing, or that they are all of vital or equal importance. In regard to some—in regard to several I may say—I still entertain a fervent hope that some *modus vivendi* may be found; that after we have had the advantage of listening to the debates in Council, one of two things may happen—either that the hon'ble member in charge of the Bill may see his way to accept some of the amendments with or without modifications, or that we may feel justified in asking for leave to withdraw them.

"Now I come to the particular amendment before the Council, and I must begin by saying that though I consider this question of very great importance, it will not be necessary for me to do more than very briefly to indicate the course of legislation in regard to this matter. Hon'ble members are aware that under the old Act V of 1876, the Local Government had the power of interfering or taking any action it pleased in regard to such matters either upon the recommendation of the Commissioners at a meeting or of its own motion; but in 1884 when the present Act was passed, which, by the way, I may be permitted to describe as a genuine measure of local self-government, it was deliberately resolved by this Council to abandon that power on behalf of the Government. I have very carefully read the report of the debates upon that occasion, and I could not fail to be struck by the significant fact that, as regards this new departure which was then made, the Council was absolutely unanimous, and that there was not a single note of discord, although upon a cognate subject a very interesting debate arose, namely, as to whether the franchise should be extended once for all to such municipalities as may be considered fit for it,

or whether the Government should reserve to itself the power of withdrawing or modifying its orders, having regard to any future change in the condition and circumstances of those municipalities. After a very interesting debate the Council divided, and by a large majority—a majority in which I noticed with satisfaction the Lieutenant-Governor of the day voted on the popular side—it was decided that the final decision of the Government ought to be come to with regard to the existing circumstances of a municipality, and that any change in view of the future ought to be left to the initiative of the Commissioners at a meeting. That being so, I have not come across any arguments which would induce me to think that a sufficient case has been made out for calling upon this enlarged Council in the year 1894 to reverse the liberal principles so deliberately adopted by the Council of 1884. Hon'ble members are aware that there is no part of the Bill now before the Council which met with more strenuous opposition from the public than those sections which sought to reserve this power to the Government. Public criticism, I am glad to say, had due weight with the Government; for on the 7th of January, 1893, you, Sir, speaking as President of this Council and as the head of the Local Government, made the following observations. You said:—

'There has been a good deal of discontent and remonstrance against the Bill, as interfering with the principles of Local Self-Government, and as being a restrictive and reactionary step, putting the municipalities in a worse position than they were originally put when the present Act was passed in Lord Ripon's time. The sections which mainly come under these remonstrances, and which interfere, or seem to interfere, with the independence of municipalities, are six in number. Under section 4, Government reserves the power to alter the boundaries of a municipality, and to separate from a municipality any areas of land which seem to be unsuitable for municipal administration. At present that power rests only with Municipal Commissioners themselves, and, therefore, taking that power out of their hands and placing it in the hands of the Government—or rather, not taking it out of their hands, but giving Government the power to act in places where the municipalities are unwilling to do so—is distinctly an interference with municipal independence.'

"Then, after considering those sections, your Honour concluded this part of your observations by saying:—

'It is the bounden duty of Government to take notice of facts like these, and therefore we came to the conclusion that these two sections of the amending Bill might be dropped, and that we might rely in future, as we have done before, on the stronger coercive sections 65 and 66, to which I have referred—sections which can be employed as a last resource, but which it is seldom necessary for the Government to make use of. I think it also right to

inform you that, after we had come to this decision, a despatch was received from the Secretary of State to the Government of India bearing on the same subject. He took very much the same line as I have just mentioned, as representing the course of opinion in my own mind and considered the sections undesirable, and desired that we should withdraw them. It is right you should know this, and that the public should know it. Our course is very much facilitated by this communication, and we feel strengthened by the knowledge that the Secretary of State has come to the same conclusion as the Government had done independently.'

"If I may be permitted to say so, that was a very generous and gracious concession to public opinion made in a truly liberal spirit, and it was very gratefully appreciated by the country. My amendment goes no further than that declaration from the Chair. It was said and repeated in the Select Committee that a great many rural areas have been included in municipalities which are utterly unsuitable for municipal administration, and which do not comply with the provisions of section 10. That may be so, and I am quite willing to concede the point. If injustice has been done in this way, I am not for perpetuating that injustice; but if any hardship was caused by the creation of such municipalities that hardship must be suffered by those who have to pay unjust rates and taxes. And it is almost inconceivable to me that those who are so oppressed should be reluctant to petition the Government, praying that their municipality may be abolished, or that the particular local areas unsuited for municipal administration should be excluded from its limits. Therefore, I feel perfectly justified in moving this amendment. I am sure it will not be considered by any hon'ble member that my amendment is dictated by any want of confidence in the Government. I feel perfectly sure that the practical result will be very much the same whether my amendment is carried or whether it is lost, for I cannot believe that either the present Administration or any future Government will ever think of taking any action in this direction which is not likely to be endorsed by public opinion. But we are dealing with a question of principle, and I feel confident I shall not be misunderstood when I say that the Legislature ought not to take a retrograde step in regard to such matters by withdrawing the right of taking the initiative from the people and their representatives, and leaving the whole matter to be decided at the discretion of the Executive Government. As I have already said, I place great reliance on the declaration from the Chair to which I have alluded. I do not desire to detain hon'ble

members any longer, but will ask them to accept my amendment in order to give full effect to that declaration. I ask you not to mar the graciousness of the concession by insisting upon the reservation of this power in the hands of the Government. With these few observations, I have the honour to move this amendment."

The Hon'ble MR. BOURDILLON said :—"I wish to be allowed to preface my remarks by thanking the hon'ble member for the kind terms in which he has referred to our co-operation during the deliberations of the Select Committee over the Municipal Bill, and to say that the work of the Committee was rendered much lighter, and that their proceedings moved smoothly forward owing greatly to the reasonable position assumed by those who represented the popular voice in the Committee. Nevertheless, I regret to say that it is my duty to advise the Council to turn a deaf ear to the arguments of the hon'ble member who has just spoken.

"First, with reference to the quotation which the hon'ble member made from the remarks of the President of the Council on the 7th of January, 1893, I wish to draw attention to the fact that the disavowal, so to speak, which was then made from the Chair, does not appear to me to refer to the proposal, under section 4 of the Bill as it then stood, to give power to the Government to withdraw a municipality from the operation of the Act, or to exclude any local area from a municipality. If the hon'ble member will refer to the speech of the President on that occasion, he will see that His Honour mentioned several sections of the Bill, and finally wound up by saying that it was the bounden duty of the Government to take notice of the strong opposition offered to certain of them, and therefore he came to the conclusion that 'these two sections' of the amending Bill might be dropped. The reference in my opinion was not to section 4 of the Bill, but to the sections last referred to by the President, namely section 12, clause (*4*), which gave the Government the power of placing any municipality in the second schedule, and section 25, which made the sanction of Government a condition to the election of a Vice-Chairman—a power of interference which Government never before possessed. If this view of the case is correct, I cannot admit that either the Select Committee or the President are in any way bound by a supposed disavowal which in my view was not made.

"The form which the section relating to the control of municipalities, the alteration of boundaries, and similar subjects, has assumed in the amended Bill is very different from that which it wore in the original Bill. No doubt in the Bill, as first drafted, the provisions of this section were somewhat drastic. But the general opinion of the public was opposed to giving to the Local Government the power to abolish a municipality without some limitations, and in deference to that opinion His Honour agreed to modify the original proposal. As I pointed out when presenting the Report of the Select Committee, five or six versions of this Bill have been prepared. In the first Bill which was drawn up in 1891, and was circulated confidentially among officials only, this section did not appear. It was introduced in the second Bill of the 7th January, 1892, in a simple form, for section 3 of the Bill proposed to strike out of section 9 of the Act the words 'on the recommendation of the Commissioners at a meeting,' thus restoring the section to the form it had in 1876, and enabling Government to abolish a municipality without reference to the Commissioners. That proposal was laid before the Government of India in 1892, and its principle was not disapproved by them, but they suggested that it should be carried into effect subject to the provisions of sections 194 and 195 of the Panjab Municipal Act of 1891, which provide that before the limits of any municipality are altered, a notification shall be published declaring the intentions of Government, and that ample opportunity shall be given to any inhabitant to object to the proposal. Those provisions had in fact been omitted in our Bill. Accordingly, in the third draft of the Bill, which was introduced into Council in July, 1892, the Panjab Act was followed. In the fourth draft of the Bill as provisionally amended by the Select Committee (in August, 1892), a further change was made so as to enable the Government to act either on the recommendation of the Commissioners or of its own motion. Then in the fifth draft Bill which was prepared, but not laid before the Council, the smaller Select Committee struck out the words 'of its own motion.' The question was again considered by the enlarged Select Committee, who again replaced the words 'of its own motion,' and they empowered the Government to take the initiative under certain circumstances. These circumstances are described in the second proviso to section 9 of the Act, as it will stand if section 4 of the Bill is accepted by this Council. They simply are that when a municipality no longer fulfils the conditions of section 10 of the Act as to the numbers and density of its population and the character of the pursuits followed by its inhabitants, the

[*Mr. Bourdillon.*]

Lieutenant-Governor may announce his intention of withdrawing it from the operation of the Act, or of treating it under any of the other provisions of section 9. Nothing in my opinion could be more reasonable than this proposal, and when the members of this Council consider how far it falls short of the measure as first recommended, and reflect that much greater powers are exercised by the Local Government in other provinces, I feel certain that the measure will be accepted not as autocratic, retrograde and tyrannical, but as one giving to Government less power than this Council might reasonably have been asked to grant.

"The line of argument taken by my hon'ble friend, the mover of the amendment, almost gives rise to the suspicion that he believes that the Government are to take action only in the direction of abolishing a municipality. This, however, is not so: the power to adopt five different courses of action is given by this section, and it is obvious that it is not always the most drastic course which will be adopted. On the contrary, it will, I believe, very seldom happen that this power would be exercised and a municipality altogether abolished. The general feeling seems to be that even in small municipalities such work as is done is better than nothing, and I believe that this view is shared by many officers of experience, including the Chief Secretary to this Government.

"It has also been urged that Government should not assume the powers which this section grants them, because the occasions for the exercise of those powers will be very infrequent, and because, as a matter of fact, no municipalities have so fallen from their first estate as to justify Government interference. In reply, I may mention that a circular was issued in July, 1893, asking for a list of the municipalities which do not fulfil the conditions of section 10. The replies show that there are at least 15 municipalities which no longer fulfil the requirements of that section: some contain less than three thousand inhabitants, some less than one thousand to the square mile, and in some more than twenty-five per cent. of the inhabitants are chiefly employed in pursuits which are purely agricultural. It is clear therefore that Government is not proceeding on mere suspicion, but with the full knowledge that there are several existing municipalities which no longer fulfil the conditions of section 10 of Act III (B.C.) of 1884, and which on fuller enquiry it might be advisable to disenfranchise or to curtail. If the hon'ble member's amendment is carried, and the words 'of its own motion' are struck out, things will remain as they are, and

the Government will be unable to carry out a reform which may sometimes be urgently required. Experience has shown, as I stated when laying on the table the Report of the Select Committee, that Municipal Commissioners will never propose their own abolition or the reduction of the area under their control, and as the law stands unless they do so nothing can be done. Let me conclude by quoting a case in point. In the Municipality of Jajpur in Cuttack a large portion of the municipality lies to the north of the river: the rate-payers of this part of the municipality have been petitioning the Government to relieve them from the burden of municipal taxation, from which they derive no advantage, but as the Commissioners do not recommend the proposal to Government, nothing can be done. If the Government is empowered, as the present Bill proposes, to take action of its own motion, I have no doubt that the reasonable wishes of the rate-payers of Jajpur, which are supported by the Collector of the district and the Commissioner of the Division, will be gratified."

The Hon'ble MR. GHOSE said:—"My amendment contains an alternative: the power might be exercised either on the recommendation of the Commissioners at a meeting, or upon receipt of a petition from a majority of the rate-payers."

The Hon'ble MR. BOURDILLON continued:—"I note the observation, but that is a point to which I was just coming before concluding my remarks. The hon'ble member has pointed out that his amendment proposes to place the motive power in the hands either of the Commissioners or of a majority of the rate-payers. As far as my experience goes, there is very little hope that the majority of the rate-payers of a municipality will ever combine to submit a petition of any kind. Moreover, if the desired reform is not the abolition of a municipality, a matter in which all the rate-payers are concerned, but the excision of certain parts of it, it would surely be too much to ask that a majority of all the rate-payers in the municipality should record their votes in favour of such a proposal, for they would certainly realise that municipal taxation would then fall the more heavily upon them. The amendment does not provide that the power may be exercised upon a petition by the majority of the rate-payers of the particular locality concerned, but briefly says 'a majority of the registered rate-payers.'

[*Mr. Bourdillon ; Babu Surendranath Banerjee ; Mr. Lyall.*]

"For all those reasons, then, I must press upon the Council the necessity and propriety of passing this section of the Bill as it stands at present, and of rejecting the amendment which has found so able an advocate in the Hon'ble MR. GHOSE."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"The speech of the hon'ble member in charge of the Bill seems to me to convey an absolute proof of the necessity for the amendment of my hon'ble friend. The hon'ble member has referred to the case of the rate-payers of Jajpur, but the amendment of the Hon'ble MR. GHOSE contemplates the separation of an outlying tract from a municipality in the event of the majority of the rate-payers of that particular tract applying to the Government for such separation. I wish to call the attention of the Council to the fact that whenever any grievance has been felt by the rate-payers in connection with municipal matters, the Secretariat has been deluged with petitions. I will speak of one such instance to my knowledge. The rate-payers of Joyrampore within the jurisdiction of the District Board of Krishnaghur petitioned the Government. They said they had a right to be created into a municipality, and they submitted a petition to be given that boon. Therefore I say that if there is any grievance which the rate-payers feel with reference to municipal matters, they are sure to make their grievance known and ask the Government to afford them relief. It is impossible not to feel that this clause of the Bill is recognised as a retrograde measure altogether. It formed the subject of discussion at a large meeting of delegates from many of the provincial towns, which was held at the Town Hall of this City in 1892, and they objected to any departure from the provisions of the present law in regard to this matter. I am sure it will be felt as a hardship by the people to be deprived of municipal institutions and of the blessings which flow from them at the bidding of the authorities. For these reasons, I hope the Council will accept the amendment of my hon'ble friend MR. GHOSE."

The Hon'ble MR. LYALL said :—"I wish to say a word or two in explanation of the position I took in the Select Committee in reference to this matter, and I desire to appeal to the common sense of the Council to reject the amendment of the hon'ble member, and I would also appeal to the common sense of the hon'ble member himself to withdraw it from the decision of the Council to-day. No

proposition has been put before the Council to amend section 10, and yet we are now asked to continue municipalities which no longer come under the conditions specified in that section; in other words, as I read the amendment, it declares that though under section 10 certain conditions are necessary, yet when a municipality no longer fulfils those conditions, it shall still remain a municipality. I therefore maintain that, under those circumstances, we shall only be stultifying ourselves by amending the section in the way it is now proposed to do."

The Hon'ble MAHARAJA RAVANESHWAR PROSAD SINGH BAHADUR OF GIDHOUR said:—"I can see no objection to the second proviso of section 4 as amended by the Select Committee. The learned mover of the amendment considers that the initiative in withdrawing any municipality from the operation of the Act should not be taken by the Government. But the section does not give such powers of initiation in ordinary cases. It was only when it was found, on enquiry by the Government, that the conditions under which a municipality could be created under the provisions of section 10 of the Act did not exist, whether they existed before or not, that the power may be exercised by the Government. This was a safeguard against the case of a municipality dwindling into an insignificant hamlet, which would nevertheless be subject to all the burdens of municipal taxation. It is quite possible that, in such a case, some Municipal Commissioners would not be so disinterested and self-sacrificing as to apply to the Government to withdraw such municipality from the operation of the Act, and deprive themselves of the powers and dignities for which they had striven so hard during the election, and which were so dear to them. It is also not very likely that the rate-payers of backward places in the interior of Bihar will come forward of their own motion to petition the Government, though they might be saddled with heavy burdens of taxation. I will, therefore, give my support to the section as it stands."

The Hon'ble BABU GONESH CHUNDER CHUNDER said:—"As one of the members of the Select Committee, who opposed a similar amendment which was proposed by the Hon'ble MR. GHOSE in Committee, a few remarks from me will not be out of place. I myself cannot understand the object of this amendment. If this amendment is carried, the Local Government will not be

able of its own motion to withdraw a municipality from the provisions of the Act, although the municipality does not fulfil the conditions of section 10. Now what are the conditions laid down in section 10? They are that the provisions of the Act shall not be extended to any town or village unless three-fourths of the adult male population are chiefly employed in pursuits other than agricultural, and that such town or village contains a number of inhabitants not being less than three thousand and an average number of not less than one thousand inhabitants to the square mile. In itself the power proposed to be given to the Government is not a very large power. It will be exercised and can be exercised only if any of the conditions above mentioned does not exist, and not otherwise, and I cannot conceive how the existence of this power in the hands of the Government will prevent the Commissioners of any municipality, or the rate-payers, if they consider that the municipality does not comply with the provisions of section 10, from asking the Government to exercise that power. Where is the harm? The Government cannot exercise the power unless it appear from a general census or from special enquiries that a particular municipality does not comply with the provisions of section 10, and whether you have such power reserved to the Government or to the Commissioners or the rate-payers, the result will be the same. Under any circumstances, the power will have to be exercised by the Government and by nobody else. The question is, who should take the initiative? In my opinion, if the power can only be exercised by the Government it does not matter in whom the initiative is vested. Although the law empowers the Government to act of its own motion, it must be moved by somebody, and the only persons who can do so are the Commissioners at a meeting or the rate-payers. Therefore, I do not think anything will be gained by the amendment of the section."

The Hon'ble Mr. Collier said:—"As one of the members of the Select Committee I am entirely opposed to the amendment. The effect of the amendment, it appears to me, will be to render clause (*a*) of section 4 of the amended Bill entirely inoperative. We cannot expect the Commissioners of any municipality to commit suicide as a Corporation by asking for their own extinction, and the only possible way to effect the object in view is, for the Government to proceed on its own motion, after satisfying itself that any particular municipality does not fulfil the conditions of section 10. As regards the proposal that the

majority of the rate-payers should take action in the matter, it appears to me that it will be utterly impossible to get a majority of the rate-payers to combine to ask the Government to withdraw the municipality from the operation of the Act. That part of the amendment will, therefore, have no effect whatever."

The Hon'ble MR. BONNERJEE said:—"I was not a member of the Select Committee, and therefore listened to the speeches of hon'ble members both in support of and against the amendment with the utmost care, and it appears to me, so far as the argument has proceeded, that the weight of it is entirely with my hon'ble friend MR. GHOSE. The reasons which were given by my hon'ble friend BABU GONESH CHUNDER CHUNDER would rather lead me to support the amendment, but he says he will vote against it. I go with my hon'ble friend when he says that the Government should have the power of withdrawing a municipality or a particular local area from the provisions of the Act; but the object of the amendment is, that instead of the Government being a party to such withdrawal of its own motion, it should be the arbiter between contending parties, one of which may wish for the withdrawal of the municipality from, and the other for its retention under, the operation of the Act. What the amendment seeks to guard against is, that Government should not be a partisan in the matter.

"I have not the least doubt that officers of Government engaged in matters municipal carefully consider the *pros* and *cons* of all questions, but it is very seldom indeed that a project, taken in hand by the District Magistrate, is ever abandoned; it is generally carried through. When this proviso was drawn, it must have been in the mind of the framer not to give the initiative to the Government, but to follow some such plan as is mentioned in the amendment; because the proviso runs thus:—'Provided also that whenever it shall appear from a general census or from special enquiries undertaken in this behalf'. The first step, then, in the matter, apart from the census, is to make special enquiries on the subject. If, however, you leave the initiative in the hands of the Government, the Government will, in the first place, make these special enquiries; it must then come to the conclusion that a *primâ facie* case has been made out and issue a notification; and when the Government has made up its mind it is not very easy to get it to change it. If this amendment is passed, the special enquiries will have to be undertaken by the Municipal Commissioners themselves, and the result will be placed before the Government, and then the Government will be in a proper position to act.

Nobody denies that the power of withdrawal should remain with the Government. The only question is, whether the Government should be a party in this matter from the beginning, or whether it should have the decisive voice. I say that the Government ought to have the decisive voice, and that it ought not to be one of the parties in the controversy. I was not able to follow what the Hon'ble MR. LYALL said to the effect that if this amendment is carried, section 10 will be a dead-letter. Section 10 empowers the Government to extend to any town or village the provisions of this Act; the present section 4 of the Bill deals with towns or villages which are already included in a municipality; therefore, I do not see anything in the amendment which would make section 10 inoperative."

The Hon'ble MR. ALLEN said:—"I cannot conceive what there is in this amendment to call for the mass of vague argumentation we have had. Section 10 lays down the principle that the Municipal Act shall not apply to any town or village unless the Local Government shall have been satisfied that three-fourths of the adult male population of such town or village are employed in pursuits other than agricultural, and that such town or village contains a number of inhabitants not being less than three thousand, and an average number of not less than one thousand inhabitants to the square mile. That provision is either a good provision or a bad provision. If it is a bad provision let it be repealed; if it is a good provision it ought to have due effect. At present no means are provided in Act III of 1884 for giving effect to this provision, unless upon the motion of the Commissioners themselves. It has not been found by experience that Municipal Commissioners have been anxious to give effect to this provision. But rural areas within their taxable jurisdiction they have grasped at and held, and refused to give up, while they have not spent a single pice on the amelioration thereof. Is such a condition of things to be continued? The proviso in this Bill simply supplies a guard against Municipal Commissioners taxing and worrying people whom accident has placed within municipal limits, but who derive no benefit from the municipality. At present the provisions of section 10 are a dead-letter, but it is said they will operate as regards future extensions of the Act; but inasmuch as the peculiar epidemic of 1884 extended municipal institutions to every conceivable areas which, by any stretch and straining of language, could be dragged under municipal

administration, little remains in Bengal for further extensions. In the earlier stages of the passing of Act III of 1884, I happened to be a member of this Council, and I was also a member of the Select Committee. I had, however, left for England before the Act was passed, and I am unable to say why no notice was taken of this omission in the Act when it was passing through the Council, and I regard the fact that no provision was made to render section 10 operative as simply an oversight. At the same time I must inform the Council that the hon'ble member, I think, who was in charge of the Bill, certainly a member who took a most prominent part in the discussions, laid it down as an axiom that we must presume that the Municipal Commissioners and others would always comply with the directions of the law, and he objected to any provision being made in the Act for guaranteeing, by means of a sanction, that this presumption should bear fruit. Possibly the omission was deliberate and in pursuance of that principle. Section 10 was limited to a direction without any arrangement for compelling Commissioners to give effect to it when the circumstances of any local area were such as to require its exclusion from the municipal system."

The Hon'ble SIR CHARLES PAUL said:—"I must oppose this amendment. It appears to me that this proviso is only supplementary to section 10 of the Act. Section 10 is insufficient in that, whilst it allows the Government to place certain areas within the limits of a municipality and to treat them as municipalities, it gives no power when the essential conditions of a municipality fail to withdraw it from the category of a municipality. Therefore, I regard this proviso as a supplement to section 10 Then, as the proviso is drawn, it appears to me that the supplement is a logical supplement; but as the proviso is intended to be amended, it seems to be illogical. I say that this proviso is a logical supplement to section 10, because we must presume that the Government having charge of these municipal arrangements and having placed the charge in the hands of other responsible persons intended to keep its watchful eye on the proceedings of those to whom it conceded duties belonging to it, and when the conditions on which these small municipalities were constituted failed, the Government was bound to take notice of that failure. Therefore this proviso enacts that when it shall appear that those conditions do not conform to the provisions of the section, the Government should at its own discretion act. The Government having discovered that the circumstances do not justify the

further continuance of a municipality under section 10—the Government having come to that conclusion on the facts, not on a number of difficult and abstruse questions, but on the question of numbers, on which there can scarcely be much doubt,—is Government to stop its hands until, in a kind and friendly spirit, the Municipal Commissioners or a majority of the rate-payers think fit to come forward and allow the Government to do its duty. I submit that this amendment is a pure work of superrogation, and I quite agree with the Hon'ble MR. LYALL that we should be stultifying ourselves if, when we have section 10 staring us in the face, we should tie up the hands of the Government and not allow them to do that which is necessary to be done, until, to quote the words of the Hon'ble MR. COLLIER, another party thinks it meet to have its own extinction recorded."

The Hon'ble MR. GHOSE in reply said:—"I desire to begin by referring to the comments made by the hon'ble member in charge of the Bill with reference to the wording of my amendment. He says that my amendment speaks of a petition by the majority of the rate-payers, by which he understands the majority of the rate-payers of the whole municipality; whereas it may be that a particular local area included in a municipality ought to be withdrawn. In order to meet that objection, I am prepared to add the words 'or of any local area included within it.' Then it has been said by more than one hon'ble member, and particularly by the Hon'ble THE MAHARAJA OF GIDHOUR, that it is very difficult to get the rate-payers to act in concert with each other in a matter of this kind. I regret to say that I cannot accept that view. It is often said, and with a great deal of justice, that the people of this part of the country are very litigious, and it does seem to me somewhat inconsistent to say of the same people that they will be utterly reluctant to take such a simple step as to petition the Government, when by so doing they will be relieved of the burden of taxation. On the contrary, in the papers submitted to us, there is abundant evidence to show that petitions have been received and complaints have been made in regard to this very matter; therefore it seems to me that the difficulty which is apprehended is not at all likely to arise. Consequently the observation of the Hon'ble MR. COLLIER, to which reference has been made by the learned Advocate-General that the matter will be left entirely to the discretion of the Municipal Commissioners, who will certainly not be likely to vote for their own extinction, does not apply. In this connection, I draw

attention to one important and significant fact, that Mr. H. A. D. PHILLIPS and other officers have reported against several municipalities, and they all seem to be of opinion that these municipalities not only do not now conform to the provisions of section 10, but that they never did do so at any time. And considering that they were all created within the last seven or eight years, they have not had time to undergo any appreciable change within that period. This fact has an important bearing, which seems to have been ignored by most of the hon'ble members who have spoken against the amendment. It seems to have been assumed that these municipalities came into existence by some process of spontaneous creation: every one of these municipalities was created on the recommendation of the District Officers of the Government. The Commissioners of Divisions and other officers must have been able to satisfy the Government of the day, on the same facts and figures on which it is now contended that these are bogus municipalities, that these places did conform to the provisions of section 10, for it is impossible to conceive that any Government would have sanctioned the creation of these municipalities, unless it was so satisfied. Therefore, it comes to this, that with a change of officers you have a complete change of views. And unless you adopt some such plan as is suggested by my amendment, the Government will be constantly asked by one set of officers to undo what has been done before under the advice of their predecessors. It is scarcely consistent with the dignity of the Government that it should be periodically asked on a mere change of the officers of a district to undo its own work, but its proper course would be to leave the initiative in the hands of those who are directly affected. In most, if not all the condemned municipalities, the Commissioners are nominated by the Government, and not by the people; therefore, the remedy is in the hands of the Government; but be that as it may, the only proper course is to leave the initiative to the people, and for the Government to assume the role of a judge when a particular case is brought up before it. With these observations, I feel it my duty to press this amendment."

The Hon'ble THE PRESIDENT said:—"I wish to express my regret that the language I used on the 7th January, 1893, should have been of such a nature that any possible dispute regarding my meaning should have arisen, and that it should have been differently understood by the Hon'ble MR. LALMOHAN GHOSE and by the hon'ble member in charge of the Bill. Speaking of section 4,

[*The President.*]

under which power was taken in the draft then before the Council to alter the boundaries of municipalities without regard to their wishes, I said I considered it right to abandon the proposal that such power should be taken by the Government, and accordingly in clauses (*b*) and (*c*) of section 4, as it now stands, those powers are reserved to be exercised by the Government on the recommendation of the Municipal Commissioners. There has, therefore, been no drawing back from the declaration I then made. The case which has been provided for by the amendment now before the Council had not then been considered by the Government. It has been clearly put by the learned Advocate-General and other hon'ble members that, where in creating a municipality under section 10, some mistake has occurred as to the number of people, and it was now found that, where it was thought there were 3,000 people or more, or that more than three-fourths of the adult male population were non-agricultural, or that there were more than one thousand to the square mile, those conditions were not now fulfilled, in such cases the municipality must cease to exist. I hold that there can be no reasonable objection to the Government taking this power which is merely directed towards carrying out the principles of the law. I would also point out that if the hon'ble member's motion is carried, the section will be a mere repetition of clause (*a*) applied to a particular case. By clause (*a*), under the recommendation of the Commissioners, the Government can withdraw any municipality from the operation of the Act. What we desire is, that in the special case where a municipality exists under conditions which, according to the intention of section 10, do not admit of its existence, the Government should have power to abolish the municipality even without a recommendation from the Commissioners. The Hon'ble Mr. Lalmohan Ghose has since suggested that action might be taken by the Government on the application of a majority of the rate-payers of any local area included within a municipality. I think it quite possible that this is a valuable suggestion. If the hon'ble member's present amendment is lost, and the Council decides to keep the clause as it stands in the Bill, I should desire to give an opportunity to the hon'ble member to introduce the words to which I have just referred, in the beginning of the section, so that it shall run, 'that the Local Government may, either on the recommendation of the majority of the Commissioners at a meeting, or on the representation of the majority of the rate-payers of the whole area, withdraw a municipality under clause (*a*),

or exclude from it a local area under clause (*b*), or include a local area under clause (*c*).' I shall be ready to accept such an amendment if the hon'ble member wishes to bring it forward, and I think it will carry out the general meaning and object of the hon'ble member himself, and of those who have spoken in favour of his amendment."

The Motion being put, the Council divided:—

Ayes 5.	*Noes* 14.
The Hon'ble Maharaja Jagadindra Nath Roy of Nator.	The Hon'ble Mr. Stuart.
The Hon'ble Mr. Bonnerjee.	The Hon'ble Mr. Womack.
The Hon'ble Maharaja Sir Luchmessur Singh Bahadur of Darbhanga.	The Hon'ble Maulvi Serajul Islam Khan Bahadur.
The Hon'ble Mr. Ghose.	The Hon'ble Maharaja Ravaneshwar Prosad Singh Bahadur of Gidhour.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Maulvi Syed Fazl Imam Khan Bahadur.
	The Hon'ble Mr. Buckland.
	The Hon'ble Mr. Collier.
	The Hon'ble Maulvi Abdul Jubbar Khan Bahadur.
	The Hon'ble Mr. Bourdillon.
	The Hon'ble Mr. Lyall.
	The Hon'ble Babu Gonesh Chunder Chunder.
	The Hon'ble Sir John Lambert.
	The Hon'ble Mr. Allen.
	The Hon'ble Sir Charles Paul.

So the Motion was lost.

The Hon'ble MR. GHOSE also moved that section 6 of the Bill be omitted. He said:—

"This is an amendment of comparatively less importance than the last. The object of the section is, to provide that the appointment of Municipal Commissioners by the Government shall be either by name or by official designation. I notice that, during the debate on the passing of the Act, the Hon'ble MR. REYNOLDS, who was in charge of the Bill, said that the Government did not intend to appoint any *ex-officio* members, and therefore the words which it is proposed by this section to insert in section 14 do not appear in the Act. I have not yet seen any argument put forward showing what has rendered this

section necessary at the present moment. If it is necessary to appoint the Sub-divisional Officer, or the District Magistrate, or the Civil Surgeon, or other official person to be a Municipal Commissioner, it may be done with equal facility by his name as by his official designation, and it also seems to me that, by having those *ex-officio* appointments, you will lessen the chance of appointing non-officials who may be peculiarly fitted for such appointments. It may be that a particular officer may be an acquisition on the Municipal Board, but it does not follow that his successor will be equally desirable. As I have already said this is not a question of very great importance, but as a question of principle I think it right to take the opinion of the Council upon it."

The Hon'ble MR. BOURDILLON said:—"The object of the change proposed in the Bill is, to bring about the better despatch of business. It has been found inconvenient when officers are frequently changed in a district to gazette them by name to be Municipal Commissioners, and therefore it is proposed to take power to gazette them by official designation. The hon'ble mover of the amendment has not told us what induced the Hon'ble MR. REYNOLDS to make the statement he has quoted; it is therefore difficult to say what authority he had for making such a declaration. At any rate, the Government did not remain of that mind very long, because in the Local Self-Government Act of 1885 power was given to appoint members of Local Boards and District Boards either by name or by official designation, and for the facility of business and administrative convenience, I think it my duty to urge that the same power should be given in this Bill."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"It is to be regretted that an attempt should be made to engraft the provisions of the Local Self-Government Act on the Bengal Municipal Act. The Local Self-Government Act is a distinctly retrograde measure as compared to the Municipal Act, and I remember that when this measure was under the consideration of the Government, considerable agitation took place with the object of making the provisions of the Act more liberal. It will be unfortunate if anything is done to engraft the principles of a somewhat retrograde measure upon the more advanced municipal system of the Province. I am prepared to make very considerable concessions to promote administrative convenience. But this is a question of principle, and I think the opportunity should be given to the Municipal Commissioners on the

occurrence of a vacancy to elect one of their own number as Chairman, which they would not have if the gentleman appointed by the Government is appointed by his official designation. If there is any little administrative convenience to be secured, I think it should not be secured by the sacrifice of an important principle."

The Hon'ble THE PRESIDENT said:—"I venture to express my opinion to the Council that no valid objection has been raised against this section of the Bill, and that no special reason has been advanced for the amendment being accepted. The section is merely intended to provide for a matter of official convenience and of a small economy. In these days of retrenchment, the Council ought not to despise even the economy which would be effected by minimising the number of the notifications in the Gazette."

The Motion was put and negatived.

The Hon'ble MR. COLLIER moved for leave to withdraw the motion of which he had given notice that in section 6 of the Bill, after the words "in section fourteen", the following be inserted:

"After the first paragraph the following shall be inserted:—

"*Explanation.*—A person shall be deemed to be resident within a municipality for the purposes of this and the following section if—

(1) he ordinarily lives within such limits; or if

(2) he has his family dwelling-house within such limits and occasionally visits it; or if

(3) he maintains a dwelling-house ready for occupation in the charge of servants within such limits and occasionally occupies it.

"A person may be resident within the limits of more than one municipality at the same time."

He said:—

"I had two reasons for this amendment. One of these was, because I was under the impression that the Government had no power to define the meaning of the word 'resident' in section 14 of the Act, and the other was, that I thought the definition which has already been laid down is objectionable. As regards the first of these points, I understand that both the Advocate-General and the Legal Remembrancer say that the Government has the power to

[*Mr. Collier; Mr. Ghose; Maharaja Jagadindra Nath Roy of Nator; Mr. Bourdillon.*]

define the term 'resident', therefore that ground for an amendment of the section falls through; and as a rule which is found to be objectionable can be altered, there is no necessity for this proposed amendment, and I accordingly ask leave to withdraw it."

The Motion was accordingly withdrawn.

The Hon'ble MR. GHOSE, by leave of the Council, withdrew the motions of which he had given notice that section 8 of the Bill be omitted, and that the words "either by name or by official designation", wherever they occur in other sections of the Bill, be also omitted.

The Hon'ble MAHARAJA JAGADINDRA NATH ROY OF NATOR said:—"I observe that by section 10 of the Bill the Divisional Commissioner is to be authorized to remove a Commissioner of a municipality. I think it is always desirable that really worthy and respectable men should accept the office of a Municipal Commissioner, and I feel sure that it is also the desire of the Government; but by the provisions of this section of the Bill the post of Municipal Commissioner will be rendered less attractive, because the Municipal Commissioners will be deprived of the highly esteemed privilege—which they have hitherto enjoyed—of being appointed by the Local Government. I do not see any reason why the power of removing a Municipal Commissioner should be delegated; because the removal of a Commissioner does not occur so often as to engross so much of the valuable time of the Local Government as to justify the delegation of the power. Besides to-day it is proposed to delegate the power to the Commissioner of the Division; to-morrow it may be thought proper to delegate it to the District Magistrate, and so on. For these reasons, I beg leave to move that in section 10 of the Bill, in sub-section (*1*) of section 20, the words 'The Local Government' be substituted for 'The Commissioner of the Division.'"

The Hon'ble MR. BOURDILLON said:—"I think some misapprehension exists in the mind of the mover of the amendment as regards the object of this section. The question is, not whether a Municipal Commissioner should be removed by order of the Local Government or by order of the Commissioner of the Division, but the intention of the section is merely to give effect and force in some definite way to an enactment which says that, when a certain thing takes place, a Municipal Commissioner shall cease to exist as such. Section 20 of Act III

of 1884 enacts that any Commissioner, who without having obtained permission from the Commissioners at a meeting, shall have omitted to attend six consecutive meetings of the Commissioners, and any Commissioner who shall have been convicted of a non-bailable offence, or shall have been declared insolvent by a competent Court, shall cease to be a Commissioner. The Act contains no further details; it does not say how he shall cease to be a Commissioner, and conflicting orders and opinions have been recorded upon this point. Some think that at the conclusion of the sixth meeting, when a Commissioner's absence has been recorded, he shall forthwith cease to be a Commissioner; others think that a resolution of the Commissioners at a meeting is necessary; others again consider that the Magistrate or the Commissioner of the Division or the Local Government must make a declaration to that effect. In the opinion of the framers of this Bill, it is desirable that this doubt should be set at rest, and they have therefore redrafted the provisions of the section, and, as some person must make the declaratory order, they have nominated for that purpose the Commissioner of the Division, who, knowing all the facts of the case and being upon the spot, is the person who should make the necessary declaration. It seems to me absurd that the Local Government should be put in motion to give effect to a provision which the present Act considers to be of so little consequence that it may be left to act of itself. When the section was redrafted, the opportunity was taken to add some words from the Panjab Municipal Act, section 11, and to make it applicable to section 57 of the existing Act."

The Hon'ble MR. COTTON said:—"I think there is a great deal of force in the observations of the hon'ble member in charge of the Bill as far as they go. But there is one clause in the section of the Bill now before us which goes beyond the observations of the hon'ble member, and that is clause (*d*), which provides that, if in the judgment of the Commissioner of the Division to be recorded in writing, a Municipal Commissioner has become disqualified to continue in office under section 57, he may remove such Municipal Commissioner. That does seem to me to go beyond anything which the present law contains. I understand the object of section 10 of the Bill to be to give effect to the existing law, that is to say, to give power to the Commissioner of the Division to remove a Municipal Commissioner who, under section 20 of the Act, ceases to be a Commissioner. But I do not think the law should

go further than that, or authorize the Commissioner of the Division to remove from the office of Municipal Commissioner any person who is disqualified for any reason other than that specified in section 20. I think clause (*d*) gives a power to the Commissioner of the Division which should not be given."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"If a Municipal Commissioner ceases to be a Commissioner under section 57, he does so *ipso facto* by reason of his being interested in a contract with the Commissioners. The *raison d'être* of this section of the Bill seems to be that the existing law does not specify the authority who has to pronounce sentence. The present practice is for the Local Government, as far as I am aware, to pronounce sentence, and I maintain that the power should not be delegated, having regard to the important expression of public opinion on that point. Among the papers circulated, I find an expression of opinion subscribed to by five or six Municipal Commissioners of Hooghly and Chinsura, in which they say :—

'Under the present law, the Government alone can remove Municipal Commissioners. It is now proposed that the Commissioner of the Division should be empowered to do so. We do not see what necessity there is for this proposed transfer of power. In the peculiar position which Commissioners of Divisions and Municipal Commissioners hold in respect of each other, questions may constantly arise to disturb the harmony.'

"That was precisely the view held by the Conference of gentlemen, chiefly Chairmen of Municipalities, who met at the Town Hall in 1892. They said that they desired to record their firm and respectful protest against the following among other provisions of the Bill, which are unnecessary and uncalled for:—

'Section 19, which delegates to the Commissioners of Divisions several important functions, now especially reserved to the Government. This would amount at times to referring to officers questions in which they are already interested and making them judges in their own cause.'

"I think an important question of principle is involved, and that principle ought not to be sacrificed to whatever little administrative convenience might be secured under the procedure now proposed. Frequently there is considerable friction between the Commissioner of the Division and Municipal Commissioners, and therefore this power of the removal of one of the latter should not be delegated to the former. Having regard to all these circumstances, I will support the amendment."

[*Sir Charles Paul; Mr. Bonnerjee.*]

The Hon'ble SIR CHARLES PAUL said:—"I must say that this section provides for a disqualification *ipso facto*. From the time that it is known that a Commissioner or Member of a Ward Committee is directly or indirectly interested in a contract, from that moment he ceases to be a Commissioner and is disqualified. What is now proposed is, to make provision for notifying such disqualification. If you do not do so, you will have to bring a suit for an injunction or a prosecution from time to time, and fine such Municipal Commissioner for every time the votes as a Commissioner. That is what is done in England, and inasmuch as there is no provision for removal here, it is necessary to have a provision, and I think the provision now proposed is a proper one. The distinction between the Local Government and the Commissioner of the Division seems to be a very fine distinction. When the Local Government is called upon to look at these things, it does not look upon them through its own spectacles; it sees through the eyes of its District Officers. The object of the section is merely to make provision for what there is no provision now."

The Hon'ble MR. BONNERJEE said:—"I will support the amendment and would point out that this section of the Bill is thus dealt with in the Report of the Select Committee:—

'By section 10 of the Bill, we have remodelled section 20 of the Act on the lines of section 18 of Bengal Act III of 1885, so as to indicate more clearly the grounds upon which a Commissioner may be removed.'

"Turning to section 18 of Act III of 1885, we find it thus enacted:—

'The Lieutenant-Governor may remove any member of a District Board or Local Board—

(*a*) if he refuses to act or becomes incapable of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as, in the opinion of the Lieutenant-Governor, formed after due enquiry, unfits him to be a member;

(*b*) if he has been declared by notification to be disqualified for employment in the public service;

(*c*) if he, without an excuse, sufficient in the opinion of the Lieutenant-Governor, absents himself from six consecutive meetings of the Board;

(*d*) when he is a salaried servant of the Government, if his continuance in office is, in the opinion of the Lieutenant-Governor, undesirable.'

[*Mr. Bonnerjee; the President.*]

"So that the source from which this section of the Bill has been taken distinctly vests the power of removing a Commissioner in the Lieutenant-Governor. No reason has been given why the change should be made, and therefore I think there is great force in the objection raised by the hon'ble mover of the amendment."

The Hon'ble THE PRESIDENT said:—"I think there has been a good deal of misunderstanding about the bearing of this section. The law declared that by certain acts a Commissioner is *ipso facto* disqualified, but how the disqualification is to be recorded is not provided in the law. What steps are to be taken to give effect to this disqualification is a *casus omissus* in the existing law. The question is, must the removal be made by the Local Government, or can it be done by the Commissioner of the Division? If the law had already provided that it must be done in all cases by the Local Government, I can understand the bearing of the amendment that such an important Act is diminished in its weight and importance by being placed in the hand of the Commissioner of the Division. But that is not so. These cases have sometimes come up to the Secretariat, and occasionally notifications have been issued by the Local Government; on other occasions the reply has been that the Commissioner of the Division should deal with the case; on others again, that the Municipal Commissioners must themselves give effect to the disqualification. Therefore, the practice is irregular and some rule should be laid down. I think the reference to the Commissioner of the Division is sufficient. It is not necessary to call upon the highest authority to do an act which has been considered by the law as automatic. The Hon'ble the Chief Secretary to the Government has objected to the inclusion of clause (*d*), by which power is given to the Commissioner to declare any one disqualified who takes a contract from the municipality. The hon'ble gentleman was once an unrivalled authority in matters of municipal law, but I am afraid that since he left the Municipal Department his knowledge has become somewhat blunted, as he has not observed that disqualification for this cause was, under the existing law, just as automatic as in the other cases. In nineteen cases out of twenty, a Municipal Commissioner does, under such cases, give in his resignation, but in those unfortunate cases where a Municipal Commissioner does not submit his resignation, and where some major force has to be exercised, the removal should be effected by the Commissioner of the Division. I would also draw attention

to section 19 of the Municipal Act, which remains unaltered. There it is the Local Government who disqualifies a Commissioner for misconduct in the discharge of his duties or of any disgraceful conduct. That is an important provision, and should remain untouched. We do not care to delegate the responsibility of the Local Government in serious and important cases. We do not wish to assume it in those simpler cases where the disqualification has hitherto operated without necessitating its invention. For these reasons, I must oppose this amendment."

The Motion being put, the Council divided:—

Ayes 5.	*Noes* 15.
The Hon'ble Maharaja Jagadindra Nath Roy of Nator.	The Hon'ble Mr. Stuart.
The Hon'ble Mr. Bonnerjee.	The Hon'ble Mr. Womack.
The Hon'ble Maulvi Serajul Islam Khan Bahadur.	The Hon'ble Maharaja Sir Luchmessur Singh Bahadur of Darbhanga.
The Hon'ble Mr. Ghose.	The Hon'ble Maharaja Ravaneshwar Prosad Singh Bahadur of Gidhour.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Maulvi Syed Fazl Imam Khan Bahadur.
	The Hon'ble Mr. Buckland.
	The Hon'ble Mr. Collier.
	The Hon'ble Maulvi Abdul Jubbar Khan Bahadur.
	The Hon'ble Mr. Bourdillon.
	The Hon'ble Mr. Lyall.
	The Hon'ble Babu Gonesh Chunder Chunder.
	The Hon'ble Sir John Lambert.
	The Hon'ble Mr. Cotton.
	The Hon'ble Mr. Allen.
	The Hon'ble Sir Charles Paul.

So the Motion was lost.

The Hon'ble BABU SURENDRANATH BANERJEE moved that in section 10 of the Bill, in clause (*a*) of section 20, the words "refuses to act or becomes incapable of acting, or" be omitted. He said:—

"Under the present municipal law, a Commissioner ceases to be a Commissioner under certain specified conditions. A Commissioner vacates his office, if he is convicted of a non-bailable offence, if he is declared an insolvent

by a competent court, if he absents himself from six consecutive meetings of the Commissioners, or if he is interested in a contract with the Municipal Commissioners. Under section 10 of the Bill, it is proposed to add to these disqualifying provisions the following, namely, if he refuses to act or becomes incapable of acting, or has been declared by public notification to be disqualified for employment in the public service. My amendment has reference to these new disqualifying conditions. If a Commissioner refuses to act, it seems only natural that he would resign: if he does not resign, he goes out by the efflux of time; he would necessarily be absent from six consecutive meetings, and would therefore cease to be a Commissioner. The same remarks apply to the second part of clause (*a*), if a Commissioner becomes incapable of acting. This provision is open to the further objection that it is vague. It says that a Commissioner ceases to be a Commissioner if 'he is incapable of acting'—incapable of acting through what? Through physical inability? That would be a fruitful source of controversy. Among no class of the community is there such a hopeless conflict of opinion as among that respectable and reputable class to whom we are accustomed to confide the safe-keeping of our health; the disagreement among doctors has passed into a proverb. One doctor may declare a person to be fit to be a Municipal Commissioner; another may declare him to be hopelessly unfit. Who is to decide amid this conflict of opinion? I do not understand the *raison d'être* of this provision. I am not aware of any inconvenience having arisen from the want of such a provision. I am told that this provision and one or two others have been taken from the Panjab Municipal Act. A high authority has spoken of the Panjab Act in terms of great admiration. The resources of oriental imagery have been laid under contribution to describe the Act. It is spoken of as a flower of municipal legislation. Speaking for myself I will say that I do not perceive the fragrance of the flower, nor do I appreciate its beauty, and I deplore the tendency which is observable in some quarters to engraft upon our advanced municipal institutions the retrograde legislation of a backward province."

The Hon'ble MR. ALLEN rose to order. He said:—"The hon'ble member is wandering from the question in discussing the Panjab."

The Hon'ble THE PRESIDENT said:—"I think I must ask the hon'ble member to confine himself to the motion before the Council."

[*Babu Surendranath Banerjee; Mr. Bourdillon; Maulvi Syed Fazl Imam Khan Bahadur; Sir Charles Paul.*]

The Hon'ble BABU SURENDRANATH BANERJEE continued:—"I was going to observe that this section of the Bill has been borrowed from the Panjab Municipal Act, and that the circumstances of the Panjab are very different from the circumstances of Bengal. A law that may be very appropriate for the Panjab may be unsuitable to the circumstances of Bengal. My contention is, that clause (*a*) is unnecessary, and that no administrative inconvenience is likely to arise from its omission."

The Hon'ble MR. BOURDILLON said:—"One word of explanation in behalf of the Select Committee will be enough. These words were inserted because it was evident that there was an omission in the law. There is at present no provision for the termination of the office of a Municipal Commissioner who refuses to act or becomes incapable of acting. By the efflux of six months' time he would be disqualified by section 20, but the Committee were not all prepared to accept this lame and impotent conclusion. As regards the charge the last speaker has brought against the wording of the Bill, 'incapable of acting,' as being vague and indefinite, it is absolutely unavoidable. It is impossible to give a definition of the term 'incapable of acting,' or to specify in detail all the circumstances under which that incapacity might arise. As to the question, who is to decide as to incapability, it has just been determined that the Commissioner of the Division should decide the point, and he should find no difficulty in coming to a conclusion."

The Hon'ble MAULVI SYED FAZL IMAM KHAN BAHADUR said:—"I know cases in which certain Municipal Commissioners have refused to act and only attended every fifth or sixth meeting simply with the view of securing their names against being struck off the list of Municipal Commissioners. They keep up their names for the sake of position only, and not for doing any municipal work. It is not desirable that such thing should be encouraged. In my opinion, therefore, this provision is very necessary, as it will put a stop to the practice of Commissioners attending only on special occasions or when it suits them to do so, and at the same time will provide for appointment of better men instead."

The Hon'ble SIR CHARLES PAUL said:—"It is an ordinary provision that when a person refuses to act or is incapable of acting, a new appointment

is to be made. It has been said that in such cases a person will naturally resign: in that case this clause will not be put in force. But in the other case, when such a person is loath to resign, what is to be done? Is all the machinery to be in a state of inaction for one single member? The hon'ble mover of the amendment drew some comparison between the Panjab and Bengal, which, if I understood him rightly, would not be to the discredit of the Panjab. In the Panjab, when a Municipal Commissioner becomes a madman or refuses to act, he is deprived of his office, but in Bengal he would continue to be a Commissioner. I am really surprised to find arguments of this kind advanced against this Bill. It appears to me that everything which tends to make the Act more perfect, everything new, is objected to by certain hon'ble members, and when they have to support these amendments, the arguments which you have heard to-day are put forward. I never thought it possible that any one could say it is not necessary to provide against these two contingencies, namely, that when a man refuses to act or is incapable of acting as a Municipal Commissioner, you are to sit with your hands folded and are not to have the power to appoint better men."

The Hon'ble Babu Surendranath Banerjee in reply said:—"I am surprised at the observations which have just been made by the learned Advocate-General. I think it is incumbent upon those who bring forward new provisions of this kind to make out their case, and I contend that no case has been made out in support of these provisions. I threw down a challenge; I asked the hon'ble member in charge of the Bill to state what administrative inconvenience had been felt from want of provisions such as those which he now wants to introduce into the law; I have not received any reply, for the best of all reasons that a reply is impossible. I have listened with considerable astonishment to the observations which fell from the Hon'ble Maulvi Syed Fazl Imam. He brought forward a specific instance, and his contention was, that the present law would meet that instance. He said that a Municipal Commissioner might absent himself from five consecutive meetings, and then attend on the sixth occasion and thus save himself from disqualification. I would ask the hon'ble member to read the section, and say whether there is anything in it which would prevent a practice of this kind. I think a case has not been made out for these new provisions, and notwithstanding what has fallen from the learned Advocate-General, I maintain it is our duty to oppose these clauses

which are condemned by public opinion and are calculated to impede the growth of municipal institutions."

The Motion being put, the Council divided:—

Ayes 4.

The Hon'ble Maharaja Jagadindra Nath Roy of Nator.
The Hon'ble Mr. Bonnerjee.
The Hon'ble Mr. Ghose.
The Hon'ble Babu Surendranath Banerjee.

Noes 16.

The Hon'ble Mr. Stuart.
The Hon'ble Mr. Womack.
The Hon'ble Maulvi Serajul Islam Khan Bahadur.
The Hon'ble Maharaja Sir Luchmessur Singh Bahadur of Darbhanga.
The Hon'ble Maharaja Ravaneshwar Prosad Singh Bahadur of Gidhour.
The Hon'ble Maulvi Syed Fazl Imam Khan Bahadur.
The Hon'ble Mr. Buckland.
The Hon'ble Mr. Collier.
The Hon'ble Maulvi Abdul Jubbar Khan Bahadur.
The Hon'ble Mr. Bourdillon.
The Hon'ble Mr. Lyall.
The Hon'ble Babu Gonesh Chunder Chunder.
The Hon'ble Sir John Lambert.
The Hon'ble Mr. Cotton.
The Hon'ble Mr. Allen.
The Hon'ble Sir Charles Paul.

So the Motion was lost.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that in the same section, clause (*b*) of section 20 be omitted. He said:—

"My objection to this clause of the Bill is not so pronounced as it is to clause (*a*) of the same section. My objection is based on principle. I have no objection to offer to the disqualification of a person convicted of a non-bailable offence, but I object to the fiat of executive authority, however eminent the authority may be being placed on the same footing with the deliberate award of a judicial tribunal. In the Select Committee I asked what occasion there was for this provision; how many cases had occurred of persons disqualified

by notification for public employment to justify the introduction of the section? I was told in reply that in the course of eight or nine years there had been only two or three cases. Therefore, there being no necessity for it, I fail to see why should we have a clause like this?"

The Hon'ble Mr. Bourdillon said:—"The intention of the provision of the Bill as it stands is, that the Commissioner of the Division may give effect to the fiat of the Government. It may be, as has been said by the hon'ble mover of the amendment, that the occasions on which a Municipal Commissioner has been declared to be disqualified for employment in the public service are very rare, but such cases may occur. We have heard much from certain quarters of the importance of upholding the dignity and maintaining the official purity of the Municipal Boards. With these sentiments, I feel sure that this Council is in full sympathy, and we are prepared to do all we reasonably can to make the position of a Municipal Commissioner one of dignity, and one which shall carry with it privileges and duties of a high character. Surely one most necessary step towards the execution of such purpose is to enact that anybody who has been declared by a notification of the Government to be disqualified for employment in the public service should without further question be branded as unworthy to sit on the board of a municipality."

The Hon'ble Mr. Bonnerjee said:—"It seems to me that this clause is unnecessary, because, it is not likely that a person who has been declared by notification to be disqualified for employment in the public service would be nominated by Government as a Commissioner. It can only touch an elected Commissioner, and with regard to him, I do not see why the discretion vested in the electors should be taken away. If they have a popular candidate who labours under the disadvantage of having been declared disqualified for employment in the public service, I do not see why he should not be elected a Municipal Commissioner. I have no doubt that in many cases the notification contains a just sentence, but it is possible that it may not or that it is not in accord with public feeling in regard to a particular individual. It is not unknown that there have been cases of conviction by our Courts even where the public conscience has not been satisfied with regard to the guilt of the individuals punished. If a person has been justly declared to be disqualified for employment in the public service, nobody would care to elect him, but if

the declaration has not been just, the people may wish to mark their sense of the injustice by electing him a Municipal Commissioner."

The Motion being put, the Council divided:—

Ayes 7.	*Noes* 11.
The Hon'ble Maharaja Jagadindra Nath Roy of Nator.	The Hon'ble Mr. Stuart.
The Hon'ble Mr. Bonnerjee.	The Hon'ble Mr. Womack.
The Hon'ble Maulvi Serajul Islam Khan Bahadur.	The Hon'ble Maharaja Ravaneshwar Prosad Singh Bahadur of Gidhour.
The Hon'ble Maharaja Sir Luchmessur Singh Bahadur of Darbhanga.	The Hon'ble Maulvi Syed Fazl Imam Khan Bahadur
The Hon'ble Mr Ghose.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Mr. Collier.
The Hon'ble Babu Gonesh Chunder Chunder.	The Hon'ble Maulvi Abdul Jubbar Khan Bahadur.
	The Hon'ble Mr. Bourdillon.
	The Hon'ble Mr Lyall.
	The Hon'ble Sir John Lambert.
	The Hon'ble Mr. Allen.

So the Motion was lost.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that in the same section, at the end of clause (*d*) of section 20, the following proviso be added:—

"Provided that any Commissioner so removed may appeal to the Local Government"

He said:—

"If the motion of the Hon'ble MAHARAJA JAGADINDRA NATH ROY OF NATOR had been carried, it would have been unnecessary to bring forward this amendment. In the cases referred to by my amendment probably the Local Government would be guided by the advice of the Commissioner of the Division. But it is one thing for the Commissioner of the Division to act independently, and quite another thing when he acts under a supervision which may at any time be invoked by an appeal to the Head of the Government. I am anxious that the constitutional and well-recognized right of appeal to the head of the Government should be recognized by a provision like this. It would not in the smallest degree interfere with administrative convenience. There is a considerable body of opinion against the delegation of these powers to Commissioners of Divisions, and this is a *via media* which would go some way to conciliate public feeling."

[*Mr. Bourdillon; the President; Babu Surendranath Banerjee.*]

The Hon'ble MR. BOURDILLON said:—"This matter was not brought before the Select Committee, but speaking personally, as an individual member there does not seem to me to be much objection to allowing an appeal to the Local Government in these cases."

The Hon'ble THE PRESIDENT said:—"I accept this amendment on the part of the Government, and I trust the Council will pass it without any discussion. It is decidedly advisable that there should be an appeal in such cases."

The Motion was put and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that in section 12 of the Bill, after sub-section (2) of section 23, the following be added:—

"and such Chairman shall be appointed by name."

He said:—

"In paragraph 9 of the Select Committee's Report we find the following remarks:—

'Section 23 of the Act has been amended by section 12 of the Bill, so as to make it clear that when the Commissioners of a municipality not mentioned in the second schedule of the Act have requested the Lieutenant-Governor to appoint a Chairman, they do not thereby surrender their power to appoint a Chairman on the occurrence of a subsequent vacancy.'

"The object of the amendment is to make quite clear the sense of the Select Committee's recommendation, and there ought not to be any difference of opinion about the matter."

The Hon'ble MR. BOURDILLON said.—"Inasmuch as this amendment is intended to give effect to the recommendation of the Select Committee, there can be no objection to it. The argument is, that when the Government is asked under section 23 of the Act to appoint a Chairman, the Municipal Commissioners do not by so doing surrender for the remainder of the three years during which they hold office their power of appointing a Chairman. They ask the Government to appoint a Chairman, because for some special and probably temporary reason they are not prepared to elect one themselves; they do not desire to direct themselves altogether. The amendment seems to make that

clear, and it declares that such Chairman shall be appointed by name; and there should be no question of his being appointed *ex-officio*; and if such Chairman vacates the appointment, it would not be carried on to his successor in office, and the question of appointing a Chairman would again be open."

The Hon'ble THE PRESIDENT said:—"There is no objection on the part of the Government to accept this amendment."

The Motion was put and agreed to.

The Hon'ble MR. BOURDILLON moved that after section 15 of the Bill the following section be inserted:—

"After section 26, the following section shall be inserted:—

"26A. Notwithstanding anything contained in sections twenty-four and twenty-five, the Chairman and Vice-Chairman of any municipality shall cease to hold office as soon as the new body of Commissioners is appointed or elected, or is appointed and elected otherwise than under section twenty-seven in the municipality in which they hold office."

He said:—

"This amendment arises out of circumstances subsequently brought to the notice of the Government. At the election in the Burdwan Municipality three years ago the general body of Commissioners were elected and appointed during the month of December, 1890, but for various reasons there was a delay in giving effect to the appointment of Chairman and Vice-Chairman, and they took office from 18th March, 1891, so that there was an interval of about three months between the election and appointment of the Commissioners and the appointment of the Chairman and Vice-Chairman. Sections 24 and 25 of the Act declare that the term of office of a Chairman, Vice-Chairman and Commissioner shall be three years from the date of election or appointment. The question arose, whether the officers in question were entitled to remain in office on the ground of their office, or whether they should not go out of office with their fellow-Commissioners.

"Legal opinion was taken, and it was held that the Chairman and Vice-Chairman were entitled to continue acting as such with the new body of Commissioners, and that until the 17th March was past the new body was not entitled or empowered to elect a Chairman or Vice-Chairman. This was rather an embarrassing position, and it is obvious that it would become exceedingly

[*Mr. Bourdillon; Babu Surendranath Banerjee; Mr. Bonnerjee; Mr. Allen; the President.*]

embarrassing if the elected Chairman and Vice-Chairman were not included in the new body of Commissioners. The result would be that the Commissioners would be acting under the presidency of two gentlemen with whom they had nothing to do. It is, therefore, proposed that as soon as a new body is appointed or elected, or appointed and elected, or rather as soon as the old body go out of office, the Chairman and Vice-Chairman should share the same fate, and that the new body should at once proceed to elect their own Chairman and Vice-Chairman. The amendment is proposed with the object of giving effect to this procedure."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"There will be some little time between the election of the Commissioners and the appointment of a Chairman and Vice-Chairman. What provision does the section make to meet this interregnum?"

The Hon'ble MR. BOURDILLON said:—"It will be met by the provision of section 15 of the Bill, that the old body shall continue to hold office until a meeting is called of the new body of Commissioners."

The Hon'ble Mr. BONNERJEE moved, by way of amendment, that the words "re-appointed or re-elected" be added to the proposed section.

The Hon'ble MR. ALLEN said:—"I would suggest that these amendments be kept back until they shall have been further examined. There will be inconvenience if any time elapses between the going out of the old and the appointment of the new Chairman and Vice-Chairman. Numerous executive functions have to be performed, and there may be no one in authority, for a month or two months, to perform such functions."

The Hon'ble THE PRESIDENT said:—"I agree with the Hon'ble MR. ALLEN that the consideration of these amendments should be postponed."

The further consideration of these amendments, as also of the Hon'ble MR. BOURDILLON's motion, that in section 16 of the Bill, for the number "26" the number and letter "26 A" and for the number and letter "26 A" the number and letter "26 B" be substituted, was postponed to the next sitting of the Council.

[*Maharaja Jagadindra Nath Roy of Nator; Mr. Bourdillon; Mr. Collier.*]

The Hon'ble MAHARAJA JAGADINDRA NATH ROY OF NATOR moved that in section 18 of the Bill, sub-section (*3*) of section 27A be omitted, and that the words "or a Commissioner" be inserted between the word "Vice-Chairman" and the word "of" in the first line of sub-section (*2*) of the same section. He said:—

"In almost all mufassal municipalities I have noticed there are two parties in opposition to each other. If a Commissioner belongs to the party other than that of the Chairman and if the Chairman refuses to accept his resignation, what will happen? Either he must refuse to act or go on acting against his will. If he refuses to act, it means his removal from office, therefore, as he cannot refuse, he must go on acting against his will. This seems some what hard for a man holding an honorary office. For these reasons, I move these amendments."

The Hon'ble MR. BOURDILLON said:—"The law at present makes no provision as to the person by whom the resignation of a Chairman, Vice-Chairman, or Commissioner must be accepted, and therefore the proposed section 27A now lays down the procedure: a Chairman may resign by notifying his intention to the Local Government, and on such resignation being accepted, the Chairman shall vacate his office. In the case of a Vice-Chairman, he must notify his intention to the Chairman, who shall lay it before the Commissioners at a meeting, and on its being accepted by them, the office shall be vacated. Lastly, a Commissioner may resign by notifying his intention to the Chairman and, on it being accepted, the office shall be vacated. There is some reason why the resignation of a Vice-Chairman should be laid before the Commissioners because it was they who elected him, but to require the resignation of a Commissions- to be laid before the Commissioners at a meeting appears to me to give unneceer sary solemnity to an incident which is of common occurrence."

The Hon'ble MR. COLLIER said:—"I am rather in favour of this amendment. My impression is, that in many cases Commissioners resign hastily without due consideration. If the resignation is to be laid before the Commissioners at a meeting, there will be time for explanation and for the withdrawal of the resignation."

The Motion being put, the Council divided:—

Maharaja Jagadindra Nath Roy of Nator.]

Ayes 14.

The Hon'ble Maharaja Jagadindra Nath Roy of Nator.
The Hon'ble Mr. Womack.
The Hon'ble Mr. Bonnerjee.
The Hon'ble Maulvi Serajul Islam Khan Bahadur.
The Hon'ble Maharaja Sir Luchmessur Singh Bahadur of Darbhanga.
The Hon'ble Mr. Ghose.
The Hon'ble Babu Surendranath Banerjee.
The Hon'ble Maharaja Ravaneshwar Prosad Singh Bahadur of Gidhour.
The Hon'ble Mr. Collier.
The Hon'ble Maulvi Abdul Jubbar Khan Bahadur.
The Hon'ble Babu Gonesh Chunder Chunder.
The Hon'ble Sir John Lambert.
The Hon'ble Mr. Cotton
The Hon'ble Sir Charles Paul

Noes 6.

The Hon'ble Mr. Stuart.
The Hon'ble Maulvi Syed Fazl Imam Khan Bahadur.
The Hon'ble Mr. Buckland
The Hon'ble Mr. Bourdillon.
The Hon'ble Mr. Lyall.
The Hon'ble Mr. Allen.

So the Motions were carried.

The Hon'ble MAHARAJA JAGADINDRA NATH ROY OF NATOR also moved that in section 19 of the Bill, after the paragraph proposed to be added to section 28, the following proviso be added:—

"Provided that the allowance so granted, together with the acting allowance, if any, of the officiating incumbent, shall not exceed the salary fixed for the office."

He said:—

"The Commissioners of a municipality are empowered to grant leave allowances to a salaried Chairman or Vice-Chairman, but no rate of such allowance has been fixed. In some cases, the Commissioners may be persuaded to grant leave on full pay to a Chairman or Vice-Chairman, and it may also be necessary to appoint a man to act for him and to pay such acting man some salary. It is to prevent the Commissioners doing this that I propose this amendment."

The Motion was put and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE moved that in section 20 of the Bill, in sub-section (*1*) of section 29A, the words "the second paragraph of section sixteen" be omitted. He said:—

"This is a very small matter. The Bill gives the Commissioner of the Division the power of nominating a Commissioner on the failure of the election of a Commissioner in respect of any ward. I propose that this power of nomination should, as in the present Act, continue to be vested in the Local Government. A Commissioner would like to be appointed by the Local Government rather than by the Commissioner of the Division. It is entirely a matter of sentiment, but I know that the feeling is a real one."

The Hon'ble MR. BOURDILLON said:—"The Bill proposes to transfer to the Commissioner of the Division certain powers hitherto exercised by the Government. The reason for doing so is, to secure expedition in the despatch of business. There is no doubt a good deal in what has been said as to the sentiment prevailing in respect of the appointment of a Commissioner being made by the Local Government. The Commissioners in all other circumstances are appointed by the Government; but in the single case of a municipality failing to elect all the Commissioners required, the Bill proposes to empower the Commissioner of the Division to appoint Commissioners in order to complete the number of Commissioners. I confess that I do not see any particular reason for this special provision, and I think that there is no objection to this amendment. I shall be prepared to accept it."

The Hon'ble THE PRESIDENT said:—"I agree with the hon'ble member in charge of the Bill that the amendment is a desirable one. I accept it on behalf of the Government."

The Motion was put and agreed to.

The consideration of the other amendments was postponed to the next sitting of the Council.

The Council adjourned to Saturday, the 24th March, 1894.

GORDON LEITH,

CALCUTTA; *The 26th March*, 1894. } *Assistant Secretary to the Govt. of Bengal, Legislative Department.*

[By subsequent order of the President, the meeting of the Council was postponed to Saturday, the 31st idem.]

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892.

The Council met at the Council Chamber on Saturday, the 31st March, 1894.

Present:

The Hon'ble Sir Charles Alfred Elliott, K.C.S.I., Lieutenant-Governor of Bengal, *presiding.*

The Hon'ble Sir Charles Paul, K.C.I.E., *Advocate-General.*

The Hon'ble T. T. Allen.

The Hon'ble H. J. S. Cotton, C.S.I.

The Hon'ble Sir John Lambert, K.C.I.E.

The Hon'ble D. R. Lyall, C.S.I.

The Hon'ble J. A. Bourdillon.

The Hon'ble Maulvi Abdul Jubbar Khan Bahadur.

The Hon'ble F. R. S. Collier.

The Hon'ble C. E. Buckland.

The Hon'ble C. A. Wilkins.

The Hon'ble Maulvi Syed Fazl Imam Khan Bahadur.

The Hon'ble Surendranath Banerjee.

The Hon'ble L. Ghose.

The Hon'ble Maulvi Serajul Islam Khan Bahadur.

The Hon'ble J. G. Womack.

The Hon'ble Maharaja Jagadindra Nath Roy of Nator.

The Hon'ble J. N. Stuart.

NEW MEMBER.

The Hon'ble Mr. C. A. Wilkins took his seat in Council.

[*Babu Surendranath Banerjee; Mr. Buckland; Mr. Bourdillon.*]

ALLEGED WASTE AND MISAPPROPRIATION OF HINDU RELIGIOUS ENDOWMENTS.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Will the Government state whether it has received any representations from public bodies on the question of Hindu religious endowments complaining of the waste and misappropriation of temple funds by Mohunts, and what action does the Government propose to take on these representations?

The Hon'ble MR. BUCKLAND replied:—

"A memorial on the subject referred to by the hon'ble member was received from the British Indian Association on the 16th March. There has not yet been time to give the memorial the careful consideration which it deserves and will receive."

COMPENSATION ALLOWANCE TO NON-DOMICILED EUROPEANS AND EURASIANS.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

(*a*) Will the Government state the number of non-domiciled European and Eurasian servants of the Government (stating the number in each case) who in the Bengal Establishment draw compensation allowance, and the average amount of such allowance per month?

(*b*) Whether any allowance is paid, if so, what is the total amount and in how many cases, to non-domiciled European and Eurasian employés who draw salaries of over Rs. 200 a month, but whose appointments have not received the sanction of the Government of India as required under the existing rules?

(*c*) Whether any officers of the latter cases have applied for compensation allowance. If so, how have such applications been dealt with?

The Hon'ble MR. BOURDILLON replied:—

"The information asked for by the hon'ble member was not immediately available, and had to be sought from the office of the Accountant-General: it has not yet been furnished in full, but I hope that I shall be able to supply a complete answer on the occasion of the next meeting of Council."

[*Babu Surendranath Banerjee; Mr. Cotton.*]

ALLEGED ORDER PROHIBITING ACCEPTANCE OF BAIL IN CERTAIN NON-BAILABLE CASES.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

(*a*) Whether the attention of Government has been drawn to an order passed by Mr. Westmacott, Commissioner of the Presidency Division, directing all Magisterial officers within his jurisdiction to refuse bail in all non-bailable offences where a charge has been framed against the accused?

(*b*) Whether the Government approves of such an order being issued by an executive officer, which is calculated to fetter the exercise of judicial discretion on the part of Magisterial officers?

(*c*) Whether, having regard to the hardship of such an order and the uncertainty of the law in the matter, the Government will consult the Advocate-General as to the legality of the order?

(*d*) And whether, if the order is declared to be illegal, the Government will direct that it be withdrawn?

The Hon'ble MR. COTTON replied:—

"The Lieutenant-Governor has ascertained that Mr. Westmacott has issued no such order."

ENQUIRY AS TO TRUTH OF CERTAIN STATEMENTS IN AN AFFIDAVIT.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

(*a*) Whether the attention of the Government has been drawn to an affidavit, No. 50, dated 19th February, 1894, filed before the Court of the Sessions Judge of Saran, and published in the *Amrita Bazar Patrika* of the 1st March, 1894, in which Ali Hossein, resident of Mohanuda, subdivision Siwan, district Saran, among other things, solemnly affirmed as follows:—

"(*1*) I was a witness in the case of Empress *versus* Khendhari Rai and Dilram Sahu under section 107 of the Criminal Procedure Code on behalf of Dilram Sahu in the Court of Mr. Lang, the Joint-Magistrate of Siwan. During my examination, Mr. Lang said to me:—'You have come to depose on behalf of

a Hindu. You are not a Mussalman. You are born of a Hindu. You are born of a Rajput. I have not taxed Mussalman, Chamars and Dasadhs, but other Hindus of that *eleka*. You will also be now taxed.'

"(*2*) I sent a petition to the Lieutenant-Governor of Bengal, complaining of the above, and that petition was under my sanction and with my knowledge and on my behalf.

"(*3*) I do not know to read and write, and therefore could not sign my name on it.

A. SINGH,
Comr. of Affdts."

CHAPRA; *the* 19*th February*, 1894.

(*b*) Whether the attention of the Government has been drawn to the statement published in the same paper to the effect that the affidavit is supported by the statements of some half a dozen eye-witnesses?

(*c*) Will the Government, having regard to the affidavit, direct a further enquiry to be made, and if the affidavit is false, prosecute Ali Hossein for perjury: if it is true, take such action as the justice of the case may demand?

The Hon'ble MR. COTTON replied:—

"The Lieutenant-Governor does not consider it necessary to take any further action in regard to this matter."

BENGAL PROVINCIAL SERVICE BUDGET FOR 1894-95.

The Hon'ble MR. BOURDILLON laid on the table the Bengal Provincial Service Budget for 1894-95. He said:—

"The Financial Statement for the Province of Bengal, which under the new Rules of Council had for the first time to be laid before Council in 1893, afforded the Hon'ble MR. RISLEY, who was then Financial Secretary, an opportunity of explaining the origin of the system of Provincial Finance, the conditions of the administration of finance by the Provincial Governments, and the general results of the working of the system in Bengal during the twenty-one years covered by what are colloquially called the four financial contracts with the Government of India, the last of which expired with the year 1891-92. He

also explained the distinctive features of the existing Provincial contract for five years which took effect from the 1st April, 1892.

"2. This contract is based upon the assumption that, taking one year with another, the sum required by the Government of Bengal to meet the reasonable demands of the Province on heads of expenditure classed as Provincial is Rs. 4,07,91,000; and as the average annual income was estimated by the Supreme Government in March, 1892, at Rs. 4,22,30,000, the difference of Rs. 14,39,000 is the sum which the Local Government has to hand over to the Imperial Exchequer every year, the Province being thus left with an estimated income and expenditure exactly equal. The receipts under some heads are credited entirely to Provincial revenues, while the revenue under others is shared in varying proportions by the Imperial and Local Governments. The same system is applied to heads of expenditure, the general principle being observed (with a few exceptions) that the proportion of receipts and of expenditure made over to the Local Government should be the same. In these circumstances, it is obvious that a Local Government has every incentive to careful administration, for the larger the gross income which it can raise, or the greater the economies which it can effect consistently with efficient administration, the larger will be the sum represented by its proportionate share of the revenue.

"3. Under this system, the Provincial Government gets one-fourth of the Land Revenue together with 12 per cent. of the revenue collected from Government Estates, half of the receipts on account of Income-tax, Forests, and Registration, and of the net traffic earnings of the Eastern Bengal Railway, three-fourths of Stamps and one-fourth of Excise. It takes the whole of the receipts under all the other heads except such as are virtually Imperial, but in which a small credit is allowed for special reasons such as Salt, Customs, Interest on Loans and Advances, Superannuation, and Stationery and Printing. On the other side, the Government of Bengal is required to meet all charges under the great spending departments such as General Administration, Courts of Law, Jails, Police, Education, Medical, &c., as well as those under the producing departments—Land Revenue (except Settlement), Provincial Rates, Salt and Customs. It has to meet the whole cost of Stationery and Printing, excluding purchases for the Central Stores, the working expenses of Irrigation and Navigation, and Civil Works, with the exception of Imperial Buildings. It is responsible for one-half of the expenditure under Income-tax, Forests and Registration, for three-fourths of Stamp expenditure, and a quarter of that on Excise.

"4. It is not to be supposed, however, that, with the announcement of the total annual assignment for the Province, the control exercised by the Government of India over Provincial finance comes to an end, for, in the first place, the Local Government is required to maintain all the Provincial services in a state of administrative efficiency, providing increased expenditure in any directions necessary for that purpose, either by reduction of expenditure under other heads, or from increased revenue; secondly, the powers of the Local Government as regards the expenditure of the funds thus placed by estimate at their disposal are carefully defined; and thirdly, with the double object of maintaining a proper supervision over the proceedings of Local Governments, and of ascertaining as closely as possible what its own financial position is, the Supreme Government has laid down strict rules for the preparation of Provincial budgets and for their submission for approval, and they reserve to themselves the right of altering figures both on the receipt and expenditure side, if later or more precise information justifies such action. These budgets, after a careful examination by the Financial Department and the Secretaries of the Departments which have administrative control in each case, are compiled and forwarded to the Government of India as a whole on the 15th of January through the Accountant-General, who, by that time, has before him the actual figures for nine months. Soon after the close of February, the actuals for two more months, or eleven in all, are available, and on or about the 10th of March a final revised estimate for the expiring year, together with a final forecast for the year beginning on the 1st of April, are laid before the Government of India for approval and for incorporation in the great Imperial Budget for the whole of India. The figures now presented to Council in columns 4 and 5 of the abstract statements of revenue and expenditure already circulated to members are those which have been accepted by the Supreme Government after being subjected to the processes which I have just described.

"5. I now pass on to notice briefly the principal points under those heads in the Financial Statements already in the hands of the hon'ble members which seem to require comment or explanation, and I propose to treat them in succession under three heads, viz.—

(*1*) The closed accounts of 1892-93.

(*2*) The revised estimate for 1893-94.

(*3*) The budget estimate for 1894-95.

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(1)—ACCOUNTS OF 1892-93.

"6. In the Financial Statement which was laid before the Council on 1st April, 1893, it was shown that, according to the revised estimate for 1892-93 as passed by the Government of India, the aggregate Provincial receipts of the year would amount to Rs. 4,22,82,000, and the Provincial expenditure to Rs. 4,23,89,000. The actual figures prove to have been Rs. 4,24,45,567 for receipts, and Rs. 4,25,43,825 for expenditure, so that in round numbers the result has been an improvement of Rs. 1,64,000 in revenue, which an increase of Rs. 1,55,000 in expenditure reduces to a net gain of Rs. 9,000. The improvement in revenue was chiefly under direct receipts from Irrigation Major Works, which amounted to Rs. 18,88,000 against Rs. 16,50,000 originally expected, showing a net better result of Rs. 2,38,000 against a decrease of Rs. 1,06,000 under Railways. The increase in expenditure was mainly due to a grant of Rs. 1,00,000 in aid of famine relief expenditure incurred by the Darbhanga District Board, and also to the payment of Rs. 99,307, being a portion of the cost of constructing a vessel to replace the *Colcroon*, pilot brig, which was expected to be built in the current year, and for which a provision of Rs. 25,000 only was included in the revised estimate for 1892-93.

(2)—REVISED ESTIMATE FOR 1893-94.

"7. The budget estimate for 1893-94, as originally passed by the Government of India, assumed that the year would open with a credit balance of Rs. 22,46,000, that the total revenue would amount to Rs. 4,22,30,000, and the total expenditure to Rs. 4,24,04,000, so that the year would close with a balance of Rs. 20,72,000. The latest estimate for the year shows that the total revenues have been better than was originally expected by Rs. 11,80,000, while the increase in expenditure is Rs. 2,74,000 only, giving a net betterment of Rs. 9,06,000. Much of this extra expenditure was caused by the payment of the Exchange Compensation Allowance granted to non-domiciled European and Eurasian officers of Government aggregating Rs. 4,50,000 altogether. The heads which contributed chiefly to the increase in revenue in the revised as compared with the original estimate are Land Revenue (Rs. 59,000), Stamps (Rs. 2,63,000), Excise (Rs. 1,50,000), Miscellaneous (Rs. 1,01,000), Railways (Rs. 4,25,000), Irrigation Major Works (Rs. 50,000) and Civil Works (Rs. 98,000). The increase in Stamps is attributable to the numerous transactions which

take place in a year of prosperity when business is brisk and funds are available for indulgence in the luxury of litigation. The same cause, combined with administrative reforms rendering more elastic the arrangements for settling shops for the sale of country spirits, has operated to produce the advance in Excise revenue. Under Railways, the great advance of 4¼ lakhs is due to the large traffic which has sprung up in the early months of 1894, chiefly consisting in the transport of jute: the principal factors in the increase of Rs. 1,01,000, under Miscellaneous, have been an increase in Partition fees and a special credit for rent and sale of railway lands in Muzaffarpur. The receipts under Civil Works were swelled by better revenue from ferries, but chiefly by a special payment of Rs. 35,250 by the Darjeeling-Himalayan Railway in settlement of a disputed claim. According to the latest estimate, it is expected that the accounts of the year will close with a credit balance of Rs. 29,87,000. Thus, owing to a sudden accession of revenue during the last quarter of the year 1893-94, in addition to the usual gradual improvement which it is usually safe to assume, Government, after paying 4½ lakhs for exchange compensation, finds itself with a surplus of nearly ten lakhs above its minimum closing balance of 20 lakhs, and is thus able to meet the call of the Government of India for a contribution of three lakhs.

(3)—BUDGET ESTIMATE FOR 1894-95.

"8. The Budget Estimate for 1894-95, as finally passed by the Government of India, accepts as an opening balance the figures just mentioned, viz., Rs. 29,87,000, and contemplates receipts aggregating Rs. 4,28,28,000, thus making a total of Rs. 4,58,15,000 available for expenditure in the course of the year, less a sufficient closing balance. The estimate of receipts framed by the Local Government was 3 lakhs higher than this sum, but orders have lately been received from the Government of India to the effect that the contribution of 3 lakhs which the Imperial Government has decided to levy will be shown as a deduction under the head of Land Revenue, and the net receipts from that source will appear as Rs. 83,73,000 only instead of Rs. 86,73,000. On the other hand, the sanctioned grant for expenditure in 1894-95 is Rs. 4,35,98,000 compared with Rs. 4,26,78,000, the revised estimate of 1893-94, and Rs. 42,04,000, the sanctioned estimate of the same year; the closing balance is estimated at Rs. 22,17,000 as compared with Rs. 29,87,000 at the end of 1893-94, and Rs. 22,55,000 at the end of 1892-93.

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"9. After deducting the 3 lakhs of rupees which have been adjusted by the Supreme Government under the Land Revenue head, the receipts estimated for 1894-95 exceed the sanctioned estimate of 1893-94 by Rs. 5,98,000, to which the principal contributors are expected to be—Stamps, Rs. 2,63,000; Excise, Rs. 1,50,000, and Provincial Rates Rs. 99,000: while Courts of Law, Medical and Police show an estimated increase of about a quarter of a lakh each. On the expenditure side the total grant, as already stated, exceeds the sanctioned estimate of 1893-94 by Rs. 11,94,000. A large part of this extra expenditure (Rs. 7,27,000 according to figures supplied by the Government of India) is debitable to exchange compensation, and many of the heads are swelled by this item, especially the great administrative departments of Land Revenue, Courts of Law, General Administration, Police, Education and Medical; but the advance of Police expenditure by Rs. 2,33,000 over the Budget figures of the present year includes also a large proposed expenditure of Rs. 2,03,000 devoted to carrying out some of the recommendations of the Police Commission. The expenditure on Public Works, on the other hand, has been reduced, the grant for buildings and roads being lower by two lakhs, while an additional lakh is to be expended on irrigation works.

"10. The three years the figures of which I have been discussing present features of great dissimilarity. In 1892-93, the disturbing causes so nearly counterbalanced each other that the net result shows a betterment of Rs. 9,000 only over the year's transactions. The receipts of the year 1893-94, as far as we can see, will be better than the estimate by Rs. 11,80,000, thanks to the great advance in the earnings of the Eastern Bengal State Railway and to large increase under Stamps and Excise, the sure signs of a prosperous season; and even though the Provincial revenues have had to meet the unexpected demand of 4½ lakhs for exchange compensation allowance, yet the balance at the end of the year (Rs. 29,87,000) will be greater by 7¼ lakhs than the balance of Rs. 22,55,000 with which it opened. The windfall of these large receipts from the railway has enabled the Province to meet without serious discomfort the application of the Government of India for a contribution of 3 lakhs of rupees, and though the necessity of such a demand is greatly to be regretted, the candid critic cannot deny that the wants of the Imperial Treasury with its deficit of 3 crores of rupees, are greater than those of the Provincial Treasury with its unanticipated surplus of 7¼ lakhs of rupees, and that the Bengal

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Government is bound loyally and uncomplainingly to contribute its share towards meeting the difficulty in which the Government of India finds itself. The growth of the charge of exchange compensation allowance is a more serious check on the ability of the Government to meet the constantly expanding demands of the country. But, in spite of this drawback, we have been able to devote a lakh of rupees to improvements in the administration of justice, more than two lakhs to much-needed and long-deferred improvement in the Police, and Rs. 30,000 to Education. We have had to postpone some important measures and some useful buildings which we desire to undertake, but such is the elasticity of the revenues in Bengal that we may confidently hope that, as the year wears on, the financial horizon will brighten, and that funds will yet be available for the execution of measures conceived in the best interests of this great Province and fraught with benefits for its teeming population.

(1)—RECEIPTS.

"11. *Land Revenue.*—The total collections in 1892-93 amounted to Rs. 3,81,93,000, the sanctioned estimate for 1893-94 was Rs. 3,84,33,000, and the estimate for 1894-95 has been placed at Rs. 3,85,00,000. It is expected that the 12 per cent. which is levied on the collections of all Government estates for charges of management and improvement will produce Rs. 4,75,000. Before the Provincial share of one-fourth is calculated, this sum is deducted from the total and added again to the Provincial share after the calculation of one-fourth has been made: the estimated Provincial share for 1894-95 thus arrived at is Rs. 99,81,000. This total is subject to a further debit of Rs. 16,08,000, which is shown under Land Revenue adjustments, and is made up of the following items:—

	Rs.	Rs.
To contribution to Imperial revenues under the terms of the Provincial contract	14,39,000	
To special contribution during 1894-95 under the orders of the Government of India	3,00,000	
To interest on the capital outlay on the Hidjili Tidal Canal advanced by the Government of India ...	23,000	
		17,62,000

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Deduct receipts—		
By capital outlay on the Hidjili Tidal Canal ...	1,26,000	
By grant for maintenance of Imperial buildings entrusted to Local authorities	10,000	
By compensation for reservation of the Western Duars for Khedda operations	18,000	
		1,54,000
Total payable to Imperial Funds ...		16,08,000

"12. *Stamps.*—The total revenue from Stamps has been estimated at Rs. 1,60,50,000 against Rs. 1,55,46,000, the actuals of 1892-93, and Rs. 1,60,50,000, the revised estimate of 1893-94. This large increase over the actuals of 1892-93, and the sanctioned estimate of 1893-94, which was Rs. 1,57,00,000, is justified by the actuals of the current year, which in eleven months showed an increase of Rs. 5,17,000 over the receipts of the corresponding period of last year. The Provincial share is three-fourths of the revenue, and for 1894-95 amounts to Rs. 1,20,38,000.

"13. *Excise.*—This source of revenue shows a steady upward movement, the gross figures having been as follows during the last three years:—

	Rs	Increase. Rs.
1890-91	1,04,65,000	.....
1891-92	1,11,34,000	6,69,000
1892-93	1,15,94,000	4,60,000
1893-94 (revised estimate) ...	1,21,00,000	5,06,000

"As was explained in the Resolution on the Excise Department for 1892-93, the rise in revenue was accompanied during that year by a decrease in the consumption of exciseable articles under four important heads—a very satisfactory result. The rates of duty on all kinds of ganja, except flat ganja, have been raised from 1st January, 1894. In view of this fact and of an increase in the actuals of the current year amounting to Rs. 5,07,000 in eleven months, the estimate for next year has been placed at the same figure as the revised estimate of the current year, viz. Rs. 1,21,00,000. The Provincial share of this revenue is one-fourth, and for 1894-95 amount to Rs. 30,25,000.

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"14. *Provincial Rates.*—The current demand of the Public Works Cess for 1892-93 was Rs. 40,94,343, and the actual collections were Rs. 41,95,000. In 1893-94, the first estimate was Rs. 41,50,000, and the revised estimate Rs. 41,65,000. Some increase is anticipated in 1894-95 on account of revaluations which have been completed in several districts, and the estimate has been placed at Rs. 42,00,000. The effect of the rules issued under the Management of Private Estates Act of 1892 will be to raise the receipts from the Management Rate to Rs. 1,40,000. These items account for the total rise under Provincial Rates from Rs. 45,61,000 in the budget of 1893-94 to Rs. 46,60,000 in that of 1894-95.

"15. *Income-Tax.*—The revenue under this head showed a progressive increase from 1888-89 to 1891-92, but the actuals for 1892-93 aggregated only Rs. 42,28,000, a falling off which was attributable to larger collections of arrears in the year 1891-92. The sanctioned estimate of Rs. 43,30,000 for 1893-94 has been reduced to Rs. 43,00,000, and the estimate for 1894-95 has been passed for the same figure. The Provincial share is one-half, and amounts to Rs. 21,50,000.

"16. Under *Forests*, an advance of Rs. 26,000 in all has been estimated owing to the probability of an increased demand for timber. The Provincial share is one-half. Under *Registration*, the estimated increase over the latest figures of 1893-94 is Rs. 20,000, of which half is Provincial, and it has been based on the normal development of the operations of that Department.

"17. The receipts of the great spending departments of the Government, such as *Courts of Law*, *Jails*, *Police*, *Marine*, *Education* and *Medical*, are of course quite incommensurate with the expenditure incurred upon them, and the amounts besides being small are liable to little variation. Under the first-named head, about 9 lakhs are derived from fees and sales as against an expenditure of 88 lakhs. The *Jail* Department usually earns about 9 lakhs by its manufactures, but the sum has been swollen in 1894-95 by half a lakh on account of sales of quinine. The receipts of the *Police* Department are mainly derived from payments for the services of the force and from fees and fines: the total of less than two-and-a-half lakhs bears but a small proportion to the expenditure of 59 lakhs. Pilotage receipts account for the greater part of those under the head of *Marine*, and School fees compose almost the whole of the incor

under the head of *Education* (Rs. 5,70,000), against an expenditure of nearly five times that amount. Under *Medical*, the estimate for 1894-95 is slightly below the revised estimate of 1893-94, but considerably above the sanctioned estimate of that year, which seems to have been too low. An increase of Rs. 20,000, under Hospital receipts above the budget of 1893-94 is due to the orders of Government, by which a higher rate is allowed out of the Hospital Port Dues Fund for the maintenance of sailors in hospital.

"18. *Scientific and other Minor Departments.*—The total receipts under this head in 1892-93 amounted to Rs. 1,90,000. This sum includes a special credit of Rs. 25,000, the amount contributed during that year by Sir Dinshaw Manockjee Petit for the construction of a veterinary hospital. The receipts under the subhead 'Cinchona Plantations,' that is, receipts from the sale of cinchona and quinine, amounted to Rs. 1,18 000 in 1892-93; and, in view of the increase expected from the sale of quinine in pice-packets, the estimate for 1894-95 under this subhead has been framed at Rs. 1,25,000. But there has been a falling off of emigration fees, and the total estimate has been placed at Rs. 1,74,000.

"19. *Miscellaneous.*—The average receipts for each of the past five years amount to Rs. 8,14,000, and the estimate for next year has been placed at Rs. 8,13,000, although this is a good deal below the revised figures of 1893-94.

"20. *Railways.*—There has been a large increase in the gross earnings of the Eastern Bengal State Railway consequent on transport of jute and despatches of rice from Bihar to the Eastern districts. The original estimate of net receipts for 1893-94 has been raised by the Government of India from Rs. 64,00,000 to Rs. 72,50,000, and for 1894-95 it has been placed at Rs. 67,00,000. Half of this sum is credited to Provincial revenues.

"21. *Irrigation Major Works.*—The average of the actuals of the past five years amounts to Rs. 15,51,000, but in order to be on the safe side both the revised estimate for 1893-94 and the estimate for 1894-95 have been placed at Rs. 15,00,000.

"22. *Irrigation Minor Works.*—The average actual receipts of the past five years were Rs. 8,15,000, and a like amount has been accepted as the estimate for next year.

2.—Expenditure.

"23. *Land Revenue.*—The total Provincial expenditure for 1893-94 was originally estimated at Rs. 34,19,000, but it has been found necessary to raise this to Rs. 34,88,000. The amount, viz. Rs. 1,17,000, by which the grant for 1894-95, viz. Rs. 35,36,000, exceeds the sanctioned estimate of the current year, is more than accounted for by the provision for exchange compensation allowance, aggregating Rs. 99,000 in all, and by an additional expenditure of Rs. 29,000, caused by an increase of 8 Deputy Collectors and 14 Sub-Deputy Collectors, involving also the appointment of additional establishment under them: there is also the appointment of a Personal Assistant to the Director of Land Records and Agriculture, which involves an additional expenditure of Rs. 4,800.

"24. *Stamps.*—Expenditure under this head takes the direction of commission to stamp-vendors and the cost of plain paper which has to be purchased from the central stores. Obviously therefore an increased revenue from stamps carries with it an increase in the expenditure under the same head. The largest increase anticipated in 1894-95 over the revised grant for 1893-94 is under the head of Stamp Paper supplied from central stores (Rs. 14,000), the value of which is recovered by sales to the public, and the rest is due to larger commission to stamp vendors for larger sales. Three-fourths of the expenditure fall on Provincial revenues.

"25. *Excise.*—The changes in the budget are very small and are chiefly owing to a reduction of the grant for new works necessitated by the financial pressure of the time.

"26. *Provincial Rates.*—The charges under this head comprise the cost (*a*) of collecting the Road and Public Works Cesses (Rs. 3,16,000), and (*b*) of valuation and revaluation proceedings in progress (Rs. 80,000). The share payable by Government for (*a*), which is a fixed proportion, amounts to Rs. 52,000, and that for (*b*), which is nearly one-third of the total, has been placed by the Accountant-General at Rs. 24,000. Accordingly, out of the total estimated expenditure of Rs. 3,96,000, Rs. 3,20,000 are recoverable from the District Funds, and a credit for this amount has been taken on the receipt side. The revised estimate of 1893-94 largely exceeds the sanctioned estimate of the same year on account of the cost of revaluation establishments having been originally placed at too low a figure.

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"27. *Customs.*—The total expenditure for the year 1894-95 has been estimated at Rs. 5,79,000 against Rs. 5,52,000, the sanctioned and Rs. 5,56,000 the revised estimate for the current year, and Rs. 5,40,120, the actuals of 1892-93. The increase in the estimate for 1894-95 is due partly to the provision made for the payment of exchange compensation allowance, partly to the entertainment of additional Preventive and Wharf establishments sanctioned in connection with the shipment and loading of goods at the Kidderpore Docks, and partly to the necessity of meeting increased requirements for the construction and repairs of boats. The estimate does not include any establishment to be employed to carry out the provisions of the new Tariff Act, since the cost of this establishment will be met from an assignment to be made for the purpose from the Imperial revenues.

"28. *Forests.*—The expenditure in 1893-94, of which the Provincial share is one-half, was estimated at first at Rs. 4,81,000, but was in the revised estimate placed at Rs. 4,10,000. The advance of Rs. 50,000 beyond this figure, which is estimated for 1894-95, is due to the introduction of a much-needed increase in the salaries of Foresters, Rangers and other native servants of the Department.

"29. The advance of expenditure on *Interest* from Rs. 1,38,000 in 1893-94 to Rs. 1,78,000 in 1894-95 is due to the larger loans to be taken from the Government of India in order to be lent again to local bodies and others in the Province. Prominent among these is the loan of 15 lakhs of rupees to the Municipality of Howrah.

"30. *General Administration.*—The total expenditure during 1894-95 has been estimated at Rs. 16,77,000, as compared with Rs. 15,92,000, the original, and Rs. 16,96,000, the revised, grant for the current year, showing an increase of Rs. 85,000 over the budget grant of 1893-94, of which Rs. 74,000 is due to exchange compensation allowance. The allotment includes the additional grant made once in five years for the renewal of the furniture at Belvedere and Darjeeling, a provision made for the first time for the travelling allowance of non-official members of the Legislative Council, and also an increased allotment for contract contingencies and purchase of tents.

"31. *Law and Justice, Courts of Law.*—The increase in 1894-95 compared with the sanctioned grant for 1893-94 is Rs. 3,48,000, of which Rs. 2,30,000 is on account of exchange allowance. Provision has also been made for the

appointment of an Additional Judge for the districts of Dacca, Jessore and Faridpur, and of 8 Deputy Magistrates and 2 Munsifs, together with increased provision for their establishment. There is a decrease under 'Courts of Small Causes' (Rs. 11,000) due to revision of establishment and economies carried out in accordance with the suggestions of Mr. Beighton, who was appointed to investigate the expenditure of the Calcutta Small Cause Courts.

"32. *Law and Justice—Jails.*—The estimate for 1894-95 shows an advance of Rs. 65,000 over the sanctioned estimate of 1893-94 and of Rs. 2,14,000 over the revised estimate of the same year. With a steadily increasing jail population, jail expenditure on clothing and rations must necessarily rise, and, as explained in the statements, the increase over the sanctioned grant for 1893-94 is partly due to the conversion of the Hazaribagh District Jail into a Central Jail, and partly to larger provision for expenditure in the workshops on raw material, which is met by increased income on the Revenue side.

"33. *Police.*—The increase in the grant for 1894-95 over the sanctioned grant of the current year is Rs. 2,33,000, and over the revised estimate it is Rs. 3.42,000. Of the grant for 1894-95, Rs. 68,000 fall under the head of Exchange compensation allowance. Provision has also been made for the appointment of a special Assistant in the branch for the identification of criminals, and for an increase in the number of the Military Police. A special provision of Rs. 2,09,000 has been made in order to give partial effect to the recommendations of the Police Commission. The reforms to be carried out with these funds comprise the redistribution of investigating centres, with an improvement in the position and pay of investigating officers, and also the recruitment of a reserve. It is a great satisfaction to the Lieutenant-Governor that he has been able to find funds for the inception of these important measures which have long been admitted to be desirable, and he trusts that the condition of the Provincial finances will enable him to make increased provision in future years for their further execution. The total cost of the measures proposed by the Police Commission is Rs. 5,62,000.

"34. *Marine.*—The figures for all three years under review have been a good deal disarranged by the cost of replacing the *Coleroon* pilot-brig, which involved heavy payments in 1892-93 and 1893-94.

"35. *Education.*—The total expenditure for 1894-95 has been estimated at Rs. 26,46,000 against Rs. 25,73,000, the sanctioned grant, and Rs. 25,45,000, the

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revised estimate for the current year. Of this sum, Rs. 44,000 are debitable to exchange compensation. Government has also agreed to the employment of 38 additional clerks under the Deputy Inspectors of Schools employed by the District Boards, and to an increase under 'Grants-in-aid' for native boys' schools and for European and Eurasian cadets, as also to an increased regrant amounting to Rs. 31,000 for primary schools. The estimate includes a provision of Rs. 1,800 under 'English Colleges' for the salary of an additional Professor for the Dacca College on Rs. 150 per mensem, and of Rs. 1,200 under 'Colleges,—professional,' for a course of lectures on special engineering subjects to be delivered at the Civil Engineering College, Sibpur.

"36. *Medical.*—The estimates for 1894-95 show an increase of Rs. 1,19,000 as compared with the sanctioned estimate of 1893-94, but of Rs. 4,000 only as compared with the revised estimate. This is due for the most part to exchange compensation allowance aggregating Rs. 58,000, and also to the expansion and reorganisation of the Sanitation and Vaccination Departments. The appointment of an additional Assistant Chemical Examiner has lately been sanctioned. The grant of a lakh of rupees which the Lieutenant-Governor had intended to make for a hospital in South Calcutta on condition that the Municipal Commissioners provide a site and undertake part of the cost of maintenance, has been unavoidably postponed for the present for want of funds.

"37. *Scientific and other Minor Departments.*—There is an increase of Rs. 78,000 as compared with the budget, and of Rs. 19,000 as compared with the revised estimate for 1893-94. The principal item of increase is Rs. 8,000 under 'Veterinary Charges,' chiefly due to provision being made for the keep and feed of cattle and horses which it is expected will be sent to the new Veterinary College Hospital in the Calcutta suburbs by private persons, and will be counterbalanced by receipts from fees. The increase of Rs. 2,000 under 'Experimental Cultivation' is for expenditure on silk experiments, a corresponding increase in receipts being anticipated. The provision made for the payment of Rs. 50,000 as the second instalment of the purchase-money of the Nimbong Plantation bought from Messrs. Kilburn and Company, and the estimate of Rs. 27,470 for the cost of keeping up the plantation and transporting the bark produced there to Mungpoo, explain the large additional expenditure under 'Cinchona Plantation.' Larger provision has been rendered necessary under 'Provincial Museums' to meet the increase in the pay of the Registrar

of the Office of the Trustees of the Indian Museum, and on account of the increase of establishment sanctioned by Government. On the other hand, there is a decrease of Rs. 10,000 under 'Public exhibitions and fairs' due to the fact that the grant for the current year includes a special contribution of that amount sanctioned in order to facilitate the proper representation of Indian tea at the Chicago Exhibition.

"38. *Superannuation, &c.*—The increase during the last four years amounts to Rs. 3,33,000, or an average of Rs. 83,000 a year. The Accountant-General has placed the revised estimate for 1893-94 at Rs. 17,50,000. The actuals of the first seven months of the current year show an increase of Rs. 49,000 compared with the payments in the same period of last year; but excluding a special payment of Rs. 10,000 to Captain E. W. Petley for the loss of his appointment as Port Officer of Calcutta, they amount to Rs. 39,000 during the seven months, or about Rs. 67,000 in 12 months. But looking to the steady increase in past years, the Accountant-General's estimate appears to have been rather timid, and the estimate for 1894-95 has been raised to Rs. 18,50,000.

"39. *Stationery and Printing.*—The estimate for 1894-95 amounts to Rs. 13,76,000 against Rs. 13,58,000, the actuals of 1892-93, and Rs. 13,05,000, the sanctioned estimate of the current year: but the revised estimate of 1893-94 is highest of all, viz., Rs. 14,06,000. A provision of Rs. 20,000 has been made to meet the probable need of strengthening the Accounts Branch of the Secretariat Press. Larger provision than in the sanctioned estimate for 1893-94 has also been made for the cost of stationery supplied from central stores with reference to the actuals which, in 1892-93, amounted to Rs. 7,70,369. This sum represents the value of stationery supplied to the several departments of Government, and has a natural tendency to expand with the development of the administration: the increase is carefully watched. The working of the Press has lately been subjected to an investigation which is expected to result in an economy of labour and some reduction of expenditure.

"40. *Irrigation Major Works.*—Under the category of Major Works are included the Orissa Canals, the Midnapore Canal, the Hijili Tidal Canal, and the Sone Canals, the outlay for the construction and extension of all which has for the most part been advanced from the Imperial Treasury, while the Provincial Government, which gets all the receipts from these works, is responsible for the

maintenance of them, and for the payment of interest on the capital invested in them. The total grant for Working Expenses for 1894-95 amounts to Rs. 14,70,000 against Rs. 13,98,000, originally sanctioned for 1893-94, and the revised estimate of Rs. 14,25,000, and the details are these:—

	Sanctioned estimate. 1893-94.	Revised estimate. 1893-94.	Budget estimate. 1894-95.
	Rs.	Rs.	Rs.
Maintenance and repairs ...	6,07,000	6,24,000	6,22,000
Improvements	32,000	41,000	18,000
Establishments	6,63,000	6,61,000	7,33,000
Tools and plant	91,000	92,000	92,000
Refunds of revenue ...	5,000	7,000	5,000
Total ...	13,98,000	14,25,000	14,70,000

"The original grant for 1893-94 had to be raised by Rs. 27,000 in the revised estimate for the year in consequence of larger expenditure being required to repair the damage done to the Orissa Canals by the cyclone of 1892, while the increase in 1894-95 is chiefly due to provision for the payment of exchange compensation allowance. The amount of Interest on Debt varies with the amount advanced and outstanding from time to time.

"41. *Irrigation Minor Works in charge of Public Works Department.*—The works included under this head comprise (1) the Saran Canals, the Calcutta and Eastern Canals, and the Orissa Coast Canal, for all of which capital and revenue accounts are kept; (2) the Nadia Rivers, for which only revenue accounts are kept; (3) the Eden and Teur Canals, for which neither revenue nor capital accounts are kept; and (4) Agricultural works including Government and *takavi* embankments.

"42. The actual outlay against the capital account during 1892-93, *i.e.*, charges for original work and construction, as distinguished from maintenance and repairs, was Rs. 1,12,502, and the budget estimate for 1894-95 is Rs. 2,26,000. The increase is chiefly for remodelling the Hijili Tidal Canal, the grant for which, though recorded in the Provincial account, is advanced from the Imperial funds and adjusted as an addition to the Provincial share of Land Revenue, as has been shown in paragraph 11 of these notes.

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"43. The amount originally provided for 1893-94 as debitable against revenue account was Rs. 3,59,700, which has been raised to Rs. 3,80,280 in the revised estimate on account of repairs of cyclone damage on the Orissa Coast Canal, and heavy silt clearance from the Bhangor Khal, Calcutta and Eastern Canals. For the Nadia Rivers the grant for 1894-95 is Rs. 1,22,000 against Rs. 1,23,072, the actuals of 1892-93. For other minor works and embankments for which separate accounts are not kept either of revenue or capital, the grant for 1894-95 is Rs. 8,57,000 against Rs. 8,72,300, the original grant for 1893-94, and Rs. 8,29,012, the actuals of 1892-93.

"44. The total sum expected to be spent on Minor Works and Irrigation of all kinds during 1894-95 is Rs. 15,72,000, and it is anticipated that it will be distributed under the following heads :—

	Rs.
Works	3,20,900
Repairs	7,11,500
Establishment	4,89,200
Tools and Plant	50,400
Total ...	15,72,00

"45. *Civil Works in charge of the Public Works Department.*—Under this head are comprised all the charges on Civil Buildings, Roads, Bridges, &c., and the grant for 1894-95 has been fixed at Rs. 26,30,000, being distributed thus—

	Original works.	Repairs.	Total.
	Rs.	Rs.	Rs.
Civil Buildings ...	7,66,000	3,05,900	10,71,900
Communications ...	1,54,000	5,42,000	6,96,000
Miscellaneous Improvements	5,000	55,100	60,100
Establishment ...	3,92,838	3,83,496	7,76,334
Tools and Plant ...	16,024	15,642	31,666
Total ...	13,33,862	13,02,138	26,36,000

"46. The total sum which the Lieutenant-Governor desired to spend on new buildings in 1894-95, for the construction of which administrative sanction has been received in the Public Works Department, amounts to about 13½ lakhs, but owing to the want of funds and the urgent necessity of postponing all

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expenditure that was not absolutely essential, no more than Rs. 7,66,000 could be set aside for new civil buildings. After a careful consideration of the requirements of the several departments and branches of the Public Service, and the relative importance and urgency of each of them, this sum has been distributed among the various classes of buildings as follows:—

	Rs.
Collectors' and Magistrates' Courts	50,000
Judges' Courts	15,000
Munsifs	75,000
Sub-divisional Courts	25,000
Residences for Sub-divisional Officers	10,000
Circuit-houses	5,000
Residence for the Lieutenant-Governor	5,000
High Court buildings	1,500
Stamp and Stationery buildings	1,65,000
Jails	1,00,000
Police	20,000
Education	1,00,000
Medical	35,000
Registration	10,000
Indian Museum, Calcutta	1,00,000
Miscellaneous	5,000
Sibpur Engineering College Workshops	2,600
Reserve	41,900
Total ...	7,66,000

"47. Among the important works which will be undertaken in 1894-95 may be mentioned Magistrates' and Collectors' court-houses in Faridpur (Rs. 33,300), civil buildings in Angul (Rs. 11,900), single munsifis at Meherpur and Ranaghat (Rs. 7,800 and Rs. 11,500), double munsifi at Begu Sarai (Rs. 7,300), treble munsifi at Tamluk (Rs. 10,000), quadruple munsifi at Comilla (Rs. 22,800), Sub-divisional Courts at Kishoreganj (Rs. 5,500), Jamalpur (Rs. 5,900), and Jahanabad (Rs. 8,000), Stamp and Stationery buildings in Calcutta (Rs. 1,65,000), additional accommodation for the Calcutta Museum (Rs. 1,00,000), additional wards in the Bhagalpur Central Jail (Rs. 30,000), as also additional accommodation in Dinajpur (Rs. 20,000) and Comilla Jail (Rs. 14,000), new workshops in the Alipore jail (Rs 7,000), subsidiary jail Lohardaga (Rs. 7,000), additional

accommodation in Sibpur Engineering College (Rs. 30,000), science ward in Dacca College (Rs. 20,000), additions to the zilla school at Pabna (Rs. 8,000), new roofing of the Ravenshaw College, Cuttack, (Rs. 14,800), and Kurseong Boarding School (Rs. 7,000), female ward in the General Hospital (Rs. 10,800), surgical ward in the Campbell Hospital, Scaldah (Rs. 10,000), and a residence for the District Superintendent of Police, Jalpaiguri (Rs. 7,000). On the other hand the list of works for which administrative sanction has been given, but which cannot be taken up for want of funds, contains such important items as the following: Magistrate's office and record-room at Burdwan (Rs. 24,831), munsifi at Dubrajpur in Burdwan (Rs. 8,000), court-houses for Munsifs and Subordinate Judge at Barisal (Rs. 70,000), and additional wards in the Central Jail at Buxar (Rs. 20,000).

"48. The main items in the total of Rs. 1,54,000 to be spent on communications (original works) are the following:—(1) Completing Lebong Road, Darjeeling, Rs. 18,800, (2) Causeway over the Damudar River (Ranchi and Hazaribagh Road), Rs. 10,000, (3) Bridging over the Lilajan river (Grand Trunk Road), Rs. 10,000, (4) Completing road from Bangaon to Chakradharpur, Rs. 30,000, (5) Improving roads in the Eastern Duars, Rs. 15,000, (6) Feeder roads to the Duars Railway, Rs. 10,000, (7) Constructing the Tuichong bridge on the Demagri road, Chittagong Hill Tracts, Rs. 23,900, and (8) Constructing Dâk Bungalow at Comilla Rs. 7,300.

"49. The expenditure under the head of *Civil Works in charge of the Civil Department* is liable to considerable fluctuations, since to this head are debited many charges for works extraordinary and non-recurring which for convenience sake are entrusted to Civil officers.

"50. *Contributions.*—The charges under this head consist of the net grants made to Local Funds from Provincial revenues to enable them to maintain equilibrium between the receipts and the charges of certain departments made over to them for management and maintenance. The following table gives some details of these contributions for 1894-95 and the two previous years. The large receipts under Police and Civil Works are due to receipts for pounds and ferries respectively. The largest items of expenditure are Education (Rs. 10,39,000) and Civil Works (Rs. 5,47,000), which alone make up nearly sixteen lakhs out of the total cost of the transferred departments, viz. seventeen lakhs and a half estimated for 1894-95. The accounts for 1892-93 include

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a contribution of one lakh to the District Board of Darbhanga towards the cost of famine relief operations in that district, and the sum of Rs. 1,04,000 in the estimates for 1894-95 represents a reserve to meet urgent and unforeseen expenditure:—

Heads.	Accounts, 1892-93.		Revised estimate, 1893-94.		Estimate, 1894-95.	
	Receipts.	Charges.	Receipts.	Charges.	Receipts.	Charges.
1	2	3	4	5	6	7
	Rs	Rs	Rs.	Rs	Rs.	Rs
Land Revenue	.....	20,000	.....	.....		..
Provincial rates	.....	10,000	.. .	4,000	.	2,000
Administration ...	.. ..	11,000	... .	11,000		11,000
Police (Pounds)	4,20,000	22,000	4,32,000	23,000	4,20,000	22,000
Education	25,000	10,43,000	27,000	11,07,000	25,000	10,39,000
Medical .	... ..	2,000	..	2,000		2,000
Stationery and Printing ...	.. ...	20,000	..	21,000		20,000
Civil Works (including Ferries)	2,96,000	8,47,000	3,18,000	8,28,000	2,96,000	5,47,000
Famine Relief ..	. ....	1,05,000	..	32,000	....	...
Miscellaneous	..	4,000	.. .	4,000	... ..	4,000
Irrigation	... ..	7,000	...	... ..	.....	.....
Special grant	. ...	.. ...	...	.. ..	. ..	1,04,000
	7,41,000	20,91,000	7,77,000	20,32,000	7,41,000	17,61,000
Total ..	13,50,000		12,55,000		10,10,000	

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BENGAL PROVINCIAL REVENUE.

(In Rupees, omitting 000/s, except in accounts.)

RECEIPTS.	Actuals, 1892-93.	Sanctioned estimate, 1893-94.	Revised estimate, 1893-94.	Estimate, 1894-95.
1	2	3	4	5
Opening balance	23,53,431	22,46	22,55	29,87
Principal heads of Revenue—				
I.—Land Revenue ... Proper ...	99,79,223	99,88	1,00,47	99,81
I.—Land Revenue ... Adjustments	—13,46,066	—13,50	—13,63	—16,08
III.—Salt	84,536	90	80	80
IV.—Stamps	1,16,69,378	1,17,75	1,20,38	1,20,38
V.—Excise	28,98,646	28,75	30,25	30,25
VI.—Provincial Rates	46,16,267	45,61	46,05	46,60
VII.—Customs	60,494	56	56	65
VIII.—Assessed taxes	21,13,982	21,65	21,50	21,50
IX.—Forests	3,72,441	3,87	3,91	4,00
X.—Registration	7,16,900	7,10	7,15	7,25
Total ...	3,11,45,801	3,12,57	3,17,41	3,15,06
XII.—Interest	1,42,579	1,82	1,36	2,12
Post-office, Telegraph and Mint—				
XIII.—Post-office	2,422	.....	4	5
Receipts by Civil Department—				
XVI.—Law and Justice—				
Courts of Law	8,68,295	8,76	9,00	9,04
Jails	9,13,136	9,59	9,10	9,55
XVII.—Police	2,41,518	2,19	2,40	2,40
XVIII.—Marine	9,19,761	9,12	9,12	9,19
XIX.—Education	5,65,567	5,71	5,65	5,70
XX.—Medical	1,70,263	1,51	1,80	1,77
XXI.—Scientific and other Minor Departments	1,90,003	1,62	1,75	1,74
Total ...	38,68,643	38,50	38,82	39,39
Miscellaneous—				
XXII.—Receipts in aid of Superannuation	78,018	56	77	72
XXIII.—Stationery and Printing ..	1,14,613	1,07	1,23	1,22
XXV.—Miscellaneous	8,27,175	7,96	8,97	8,13
Total ...	10,19,806	9,59	10,97	10,07
Railways—				
XXVI.—State Railways (net earnings) ...	31,06,429	32,00	36,25	33,50
Irrigation—				
XXIX.—Major works (direct receipts) ...	18,87,670	14,50	15,00	15,00
XXX.—Minor works and Navigation—				
By Public Works Department	7,54,327	8,15	8,00	8,15
By Civil Department ..	1,24,702	1,17	1,24	1,16
Total ...	27,66,699	23,82	24,24	24,31
Buildings and Roads—				
XXXII.—Civil Works—				
By Public Works Department	1,63,060	1,70	2,55	1,50
By Civil Department ...	2,30,137	2,30	2,43	2,28
Total ...	3,93,197	4,00	4,9[illegible]	78
Total Revenue ...	4,24,45,567	4,22,30	4,34,10	4,2[illegible]
GRAND TOTAL ...	4,47,98,998	4,44,76	4,56,65	4,58,1[illegible]

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BENGAL PROVINCIAL EXPENDITURE.

(In Rupees omitting 000/s, except in accounts.)

EXPENDITURE.	Accounts, 1892-93.	Sanctioned estimate, 1893-94	Revised estimate, 1893-94.	Estimate, 1894-95.
1	2	3	4	5
Direct demand on the Revenues—				
1. Refunds and drawbacks	1,61,649	1,53	1,57	1,55
2. Assignments and compensations ...	1,83,861	1,61	1,66	1,79
3. Land Revenue	33,76,119	34,19	34,88	35,36
5. Salt	1,24,695	41	35	38
6. Stamps	4,46,666	4,61	4,97	5,12
7. Excise	1,64,166	1,79	1,62	1,67
8. Provincial Rates	4,38,923	3,86	4,25	3,96
9. Customs	5,40,120	5,52	5,56	5,79
10. Assessed Taxes...	92,041	96	91	94
11. Forests	1,90,646	2,41	2,05	2,30
12. Registration	3,63,102	3,67	3,88	3,80
Total ...	60,77,191	60,56	61,70	62,61
13. Interest on ordinary debt	1,21,599	1,38	1,33	1,78
Post-office, Telegraph and Mint—				
15. Post Office	7,100	3	8	8
Salaries and expenses of Civil Department—				
18 General Administration	16,36,512	15,92	16,98	16,77
19. Law and Justice { Courts of Law ...	86,21,933	86,28	87,60	88,76
19. Law and Justice { Jails ...	21,13,532	21,79	20,30	22,44
20. Police	58,46,645	56,59	55,50	58,92
21 Marine	9,41,307	10,37	9,15	8,99
22. Education	25,37,481	25,73	25,45	26,46
24. Medical	16,12,491	15,85	17,00	17,04
25 Political	12,560	29	16	29
26. Scientific and other Minor Departments	3,10,665	3,64	4,23	4,42
Total ...	2,35,65,156	2,35,46	2,36,35	2,44,69
Miscellaneous—				
29 Superannuation, &c	17,02,868	17,50	17,50	18,50
30 Stationery and Printing	13,68,309	13,05	14,06	14,76
32 Miscellaneous	2,11,650	2,29	2,36	2,27
Total ...	32,72,827	32,84	33,92	34,53
37. Construction of Railways	1,118	.....	... ..	.
Railways (Revenue account)—				
40. Subsidized Companies—Land, &c. ...	25,356	1	3	.....
41. Miscellaneous Railway expenditure ...	.....	.....	1	. ...
Total ...	25,356	1	4	..
Irrigation—				
42. Major works—				
Working expenses	13,95,343	13,98	14,25	14,70
Interest on debt	24,23,353	24,48	24,43	24,59
43. Minor Works and Navigation—				
By Public Works Department ...	13,94,161	15,58	14,75	15,72
By Civil Department	5,284	4	4	4
Total ...	52,18,141	54,08	53,47	55,05
Buildings and Roads—				
45. Civil Works—				
By Public Works Department ...	27,23,928	27,43	25,38	26,36
By Civil Department	1,81,202	2,25	1,90	1,38
Total ...	29,05,130	29,68	27,28	27,74
Contributions	13,50,207	10,00	12,55	10,10
Total Expenditure ...	4,25,43,825	4,24,04	4,26,78	4,35,98
Closing balance	22,55,173	20,72	29,87	22,17
GRAND TOTAL ...	4,47,98,998	4,44,76	4,56,65	4,58,15
Provincial surplus (+) or deficit(−)* ...	−98,258	−1,74	+7,32	−7,70

* i.e. difference between the receipts and expenditure of the year excluding opening and closing balances.

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APPENDIX A.

Bengal Provincial Receipts in detail of minor heads.

[The figures in columns 4 and 5 are those accepted by the Government of India.]

I.—Land Revenue—

HEADS.	Actuals, 1892-93.	Sanctioned estimate, 1893-94.	Revised estimate, 1893-94.	Estimate, 1894-95.	REMARKS.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Gross Land Revenue ..	3,84,96,093	3,84,33,000		3,85,00,000	
Deduct 12 per cent. on estimated collections from Government Estates ..	4,73,600	5,07,000		4,75,000	
Receipts divisible ...	3,80,22,493	3,79,26,000		3,80,25,000	
Provincial share (one-fourth) ...	95,05,623	94,81,000		95,06,000	
Add 12 per cent. on collections from Government Estates	4,73,600	5,07,000		4,75,000	
Total ...	99,79,223	99,88,000	1,00,47,000	99,81,000	

Adjustments—

	Rs.	Rs.	Rs.	Rs.
Fixed contribution to Imperial Revenues under the terms of the contract	14,39,000	14,39,000	14,39,000	14,39,000
Add—				
Special contribution to Imperial Revenues	.....	.....	.....	3,00,000
Interest on the advance for the Hidjili Tidal Canal ..	18,255	21,000	20,000	23,000
Contribution to Provident Fund of the Tirhut State Railway	9,259	. ..	.. ...	.....
Total ..	14,06,514	14,60,000	14,59,000	17,62,000
Deduct—				
Advance for the remodelling of the Hidjili Tidal Canal ..	38,319	1,00,000	32,000	1,26,000
Grant on account of Imperial buildings placed under District Boards and Committees ..	44,023	10,000	41,000	10,000
Grant for the honorarium to Mr. Kilby for salt scabs	37,506	.....	.....	.....
Compensation for loss sustained by the Provincial Revenues on account of the reservation of the Western Duars for the Khedda Department from July, 1893	.....	.....	14,000	18,000
Contribution to the Provident Fund of Tirhut State Railway written back to Imperial	.. ...	.....	9,000	... ..
Total ..	1,20,448	1,10,000	96,000	1,54,000
Net sum transferable ...	13,46,066	13,50,000	13,63,000	16,08,000

III.—Salt—

	Rs.	Rs.	Rs.	Rs.
Rents of warehouses	53,634	60,000	50,000	50,000
Fines and forfeitures	5	....	.. .	.. .
Miscellaneous	30,897	30,000	30,000	30,000
Total ..	84,536	90,000	80,000	80,000

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IV.—Stamps—

HEADS.	Actuals, 1892-93.	Sanctioned estimate, 1893-94	Revised estimate, 1893-94.	Estimate, 1894-95.	REMARKS.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Sale of General stamps	43,15,000	43,00,000			
Sale of Court-fee stamps . .	1,09,73,000	1,10,00,000			
Sale of plain paper to be used with Court-fee stamps	2,32,000	2,20,000			Increase due to general development of operations and larger requirements.
Duty on impressing documents . .	8,000	68,000			
Fines and penalties	27,000	30,000	..... *	.. *	* Details not communicated by the Government of India.
Miscellaneous	1,000	2,000			
Total .	1,55,46,000	1,57,00,000	1,60,50,000	1,60,50,000	
Provincial share (three-fourths) ..	1,16,59,000	1,17,75,000	1,20,38,000	1,20,38,000	

V.—Excise—

	Rs.	Rs.	Rs.	Rs.	
License and distillery fees and duties for the rate of liquors and drugs	87,68,798	85,50,000	91,50,000	91,50,000	Increase due to general development of revenue.
Duty on ganja .	12,05,829	14,00,000	13,00,000	13,00,000	
Sale proceeds of excise opium	16,09,820	16,40,000	16,35,000	16,35,000	
Fines, confiscations, &c. .. .	10,537	10,000	15,000	15,000	
Total ...	1,15,94,584	1,15,00,000	1,21,00,000	1,21,00,000	
Provincial share (one-fourth) .	28,98,626	28,75,000	30,25,000	30,25,000	

VI.—Provincial Rates—

	Rs	Rs.	Rs	Rs.
Public Works Cess . .	41,36,000	41,50,000	41,25,000	42,00,000
Management of Private and Wards' Estates	77,000	80,000	1,00,000	1,40,000
Proportionate cost of establishment for collecting Road Cess . ..	3 44,000	3,31,000	3,40,000	3,20,000
Total ...	46,16,000	45,61,000	46,05,000	46,60,000

VII.—Customs—

	Rs.	Rs.	Rs.	Rs.
Sea Customs—Miscellaneous	47,321	51,000	52,000	51,000
Warehouse and Wharf rent	3 029	4,000	3,000	35,000
Miscellaneous	144	1,000	1 000	500
Total ..	50,494	56,000	56,000	55,000

VIII.—Assessed Taxes—Income-tax (Act I of 1886).

	Rs.	Rs.	Rs.	Rs.
Deductions by Government from salaries and pensions, &c ...	4,60,864	4,60,000	4,60,000	4,60,000
Deductions by Government from interest on Government securities	15,566	16,000	16,000	16,000
Income-tax on securities of local authority or company . .	44,339	44,000	44,000	44,000
Income-tax on securities of railway company	2,134	16,000	4,000	4,000
Ordinary collections	36,56,131	37,40,000	36,29,000	36,29,000
Penalties	32,814	30,000	32,000	32,000
Miscellaneous	16,116	15,000	15,000	15,000
Total ...	42,27,964	43,30,000	43,00,000	43,00,000
Provincial share (one-half) .	21,13,982	21,65,000	21,50,000	21,50,000

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IX.—Forest—

HEADS.	Actuals, 1892-93.	Sanctioned estimate, 1893-94.	Revised estimate, 1893-94.	Estimate, 1894-95.	REMARKS.
1	2	3	4	5	6
RECEIPTS.	Rs.	Rs.	Rs.	Rs.	
Timber and other produce removed from the forests by Government agency	26,082	25,100	... ..	20,500	The removal of timber by Government agency has been stopped.
Timber and other produce removed from the forests by consumers or purchasers	6,68,673	7,07,250	...	7,36,500	Raised with reference to probable demand and stock in hand
Confiscated, drift and waif wood	19,854	12,180	.	12,200	
Miscellaneous	39,273	29,470		30,500	
Total	7,44,882	7,71,000	7,82,000	8,00,000	
Provincial share (one-half)	3,72,441	3,87,000	3,91,000	4,00,000	

X.—Registration—

	Rs.	Rs	Rs.	Rs.	
Fees for registering documents	13,78,731	13,63,000	13,75,000	13,95,000	
Fees for copies of registered documents	19,781	22,000	20,000	20,000	
Miscellaneous	35,289	35,000	35,000	35,000	
Total	14,33,801	14,20,000	14,30,000	14,50,000	
Provincial share (one-half)	7,16,900	7,10,000	7,15,000	7,25,000	

XII.—Interest—

	Rs.	Rs	Rs.	Rs.	
Class I.—Interest on advances to cultivators	26,000	30,000	30,000	30,000	
Class II.—Interest on advances under Special Laws, Drainage and Embankment	4,000	5,000	4,000	10,000	
Class III.—Interest on loans to landholders, &c.	8,000	10,000	10,000	22,000	
Class IV.—Interest on loans to Municipal and other Public Corporations (excluding Presidency Corporations)	9,000	67,000	22,000	85,000	Increase due to a loan of 17 lacs to be made to the Howrah Municipality for water-works.
Interest on Government securities—Education	13,000	14,000	13,000	14,000	
Interest on miscellaneous accounts	53,000	47,000	51,000	51,000	
Total	1,43,000	1,82,000	1,30,000	2,12,000	

XIII.—Post Office—

	Rs.	Rs.	Rs.	Rs	
Recoveries on account of establishment employed in Postmaster-General's office.	2,422	.	4,000	5,000	Recoveries made from the District Post Fund.

XVI.—Law and Justice—Courts of Law—

	Rs.	Rs	Rs.	Rs.	
Sale-proceeds of unclaimed and escheated property	27,543	30,000	25,000	27,000	
Court-fees realised in cash	36,334	30,000	40,000	40,000	
General fees, fines and forfeitures	7,05,711	7,80,000	7,97 000	8,00,000	The actuals of the twelve months ended November, 1893, amounted to Rs 8,97,000
Pleadership examination fees	22,820	20,000	28,000	25,000	
Miscellaneous	15,987	16,000	10,000	12,000	
Total	8,68,395	8,76,000	9,00,000	9,04,000	

XVI.—Jails—

Heads.	Actuals, 1892-93	Sanctioned estimate 1893-94	Revised estimate, 1893-94.	Estimate 1894-95	Remarks.
1	2	3	4	5	6
	Rs	Rs	Rs	Rs	
Jails ..	4,057	9,000	4,000	5,000	
Jail manufactures	9,09,081	9,50,000	9,06,000	9,50,000	The value of the packets of quinine sold through the Postal Department is first credited in gross under this head
Total	9,13,136	9,59,000	9,10,000	9,55,000	

XVII.—Police—

	Rs.	Rs.	Rs	Rs.
Police supplied to Municipal, Cantonment and Town Funds	6,180	6,000	6,000	6,000
Police supplied to Public Departments, private companies and persons	27,180	26,000	31,000	26,000
Presidency Police	1,01,894	96,000	87,000	90,000
Recoveries on account of Village Police	2,838	2,000	2,000	3,000
Fees, fines and forfeitures ...	33,810	34,000	48,000	45,000
Superannuation receipts	540			
Miscellaneous .. .	71,067	61,000	66,000	70,000
Total Provincial	2,44,518	2,29,000	2,40,000	2,40,000

XVIII.—Marine—

	Rs	Rs	Rs.	Rs.
Sale proceeds of vessels and stores	674	2,000	2,000	1,000
Registration and other fees	34,687	30,000	35,000	35,000
Pilotage receipts { Calcutta	8,26,414	8,40,000	8,50,000	8,24,000
Pilotage receipts { Chittagong	15,022	..		16,000
Miscellaneous.				
Deductions for mess money ..	12,339	11,000		2,000
Contributions to Lifeboat Establishment, Gaulundo ...	362	300	47,000	300
Marine survey fees ..	2,128	10,000		26,000
Other items	4,364	3,700		4,700
Total Miscellaneous	19,294	40,000	...	43,000
Total	9,19,761	9,12,000	9,12,000	9,12,000

XIX.—Education—

	Rs	Rs.	Rs.	Rs.
Fees, Government Colleges, General .	1,59,057	1,62,000	2,03,000	1,60,000
Fees, Government Colleges, Professional	31,250	32,000		35,000
Fees, Schools, General	3,24,342	3,23,000	3,32,000	3,20,000
Fees, Schools, Special . ..	13,858	20,000		15,000
Contributions .. .	18,018	17,000	10,000	17,000
Income from Endowments .. .	2,240	5,000	8,000	10,000
Miscellaneous	13,172	15,000	12,000	13,000
Total	5,65,567	5,71,000	5,65,000	5,70,000

[*Mr. Bourdillon.*]

XX.—Medical—

HEADS.	Actuals, 1892-93.	Sanctioned estimate, 1893-94.	Revised estimate, 1893-94.	Estimate, 1894-95.	REMARKS.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Medical Schools and College Fees	32,891	27,000	38,000	38,000	
Hospital receipts	80,614	61,000	85,000	81,000	
Lunatic Asylum receipts	23,459	24,000	24,000	24,000	
Medicines sold by Civil Surgeons	11				
Contributions	31,350	30,000	31,000	31,800	
Miscellaneous	1,938	7,000	2,000	2,200	
Total	1,70,263	1,51,000	1,80,000	1,77,000	

XXI.—Scientific and other Minor Departments—

	Rs.	Rs.	Rs.	Rs.
Botanical and other Public Garden receipts	4,666	4,000	5,000	5,000
Cinchona Plantations	1,17,017	1,00,000	1,35,000	1,25,000
Receipts on account of Public Exhibitions and Fairs	24			
Receipts on account of experimental cultivation	3,750	3,000	4,000	5,000
Emigration fees	34,474	40,000	27,000	30,000
Examination fees	4,658	5,000	4,000	4,000
Miscellaneous	114	1,000		
Veterinary receipts	25,000			5,000
Total	1,90,093	1,62,000	1,75,000	1,74,000

XXII.—Superannuation—

	Rs.	Rs.	Rs.	Rs.
Family subscriptions of Native Members of the Covenanted Civil Service	1,253	1,000	1,000	1,000
Contributions for Pensions and Gratuities	76,765	55,000	76,000	71,000
Total	78,018	56,000	77,000	72,000

XXIII.—Stationery and Printing—

	Rs.	Rs.	Rs.	Rs.
Stationery receipts	1,011	1,000	1,000	1,000
Sale of Gazettes	18,713	19,000	18,000	18,000
Do. of Indian Law Reports	37,018	34,000	41,000	45,000
Do. of other publications	27,496	28,000	28,000	28,000
Other Press receipts	30,375	25,000	33,000	30,000
Total	1,14,613	1,07,000	1,21,000	1,22,000

XXV.—Miscellaneous—

	Rs.	Rs.	Rs.	Rs.
Unclaimed deposits	3,70,761	3,80,000	3,80,000	3,80,000
Treasure Trove	38			
Sale proceeds of Durbar presents	8,984	17,000	8,000	10,000
Sale of old stores and materials	31,000	37,000	35,000	35,000
Sale of land and houses, &c	173	3,000	20,000	2,000
Fees for Government audits	90,430	75,000	80,000	71,000
Rents	18,965	22,000	26,000	20,000
Miscellaneous fees, fines and forfeitures	1,34,711	1,01,000	1,75,000	1,40,000
Miscellaneous	1,71,261	1,61,000	1,73,000	1,55,000
Total	8,27,175	7,96,000	8,97,000	8,13,000

[*Mr. Bourdillon.*]

XXVI.—State Railways—Eastern Bengal State Railway—

Heads.	Actuals, 1892-93.	Sanctioned estimate, 1893-94.	Revised estimate, 1893-94.	Estimate, 1894-95.	Remarks.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Gross receipts ...	1,18,30,000	1,18,00,000	..	..	
Working expenses	56,17,000	54,00,000			
Net receipts	62,13,000	64,00,000	72,50,000	67,00,000	
Provincial share (one-half)	31,06,000	32,00,000	36,25,000	33,50,000	

XXIX.—Major Works (Direct Receipts)—

	Rs.	Rs.	Rs.	Rs.
Orissa Canals	4,97,658	3,40,000	3,40,000	3,40,000
Midnapore Canal	2,80,177	2,41,000	2,70,000	2,70,000
Hidjili Tidal Canal	53,462	60,000	55,000	55,000
Sone Canal	10,56,373	8,00,000	8,35,000	8,35,000
Total	18,87,670	14,50,000	15,00,000	15,00,000

XXX.—Minor Works and Navigation in charge of the Public Works Department—

Irrigation and Navigation Works.	Rs.	Rs.	Rs.	Rs.
Works for which Capital and Revenue accounts are kept—				
Saran Canal	1,526	11,000		11,000
Calcutta and Eastern Canals	4,80,244	5,02,500		4,80,000
Orissa Coast Canal	64,981	72,000		82,000
Total	5,46,751	5,85,500		5,73,000
Works for which only Revenue accounts are kept—				
Nadia rivers	1,65,538	1,90,000		1,90,000
Works for which neither Capital nor Revenue accounts are kept—				
Eden Canal	31,113	30,900	.	40,000
Teur Canal	163			.
Total	31,276	30,900		40,000
Total Irrigation and Navigation Works	7,43,565	8,06,400	...	8,03,000
Agricultural Works.				
Works for which neither Capital nor Revenue accounts are kept—				
Government embankments	6,724	5,100	..	8,000
Takavi embankments under contract	4,038	3,500		4,000
Total Agricultural Works	10,762	8,600	.	12,000
Grand Total ...	7,54,327	8,15,000	8,00,000*	8,15,000

* Details not communicated by the Government of India.

[*Mr. Lourdillon.*]

XXX.—Irrigation.—Minor Works and Navigation in charge of Civil Officers—

HEADS.	Actuals, 1892-93.	Sanctioned estimate, 1893-94.	Revised estimate, 1893-94.	Estimate, 1894-95.	
1	2	3	4	5	
	Rs.	Rs.	Rs.	Rs.	
Recoveries on account of lands benefited by zamindari embankments under the contract system	1,04,063	1,03,000	1,03,000	1,03,000	
Recoveries on account of capitalized maintenance charges of the Dankuni drainage	17,681	11,000	18,000	10,000	
Receipts of the Dankuni canal .	2,960	3,000	3,000	3,000	
Total ...	1,24,702	1,17,000	1,24,000	1,16,000	

XXXII.—Civil Works in charge of the Public Works Department—

	Rs.	Rs.	Rs.	Rs.	
Ordinary normal receipts	1,63,000	1,30,000	1,30,000	1,20,000	
Profits payable by the Darjeeling-Himalayan Railway Company ...	.	40,000	1,25,000	30,000	The revised estimate, 1893-94, includes profits for four years, while the estimates for 1894-95 include profits for one year
Total	1,63,000	1,70,000	2,55,000	1,50,000	

XXXII.—Civil Works in charge of Civil Officers—

	Rs.	Rs.	Rs.	Rs.
Ferry receipts	2,24,065	2,27,000	2,40,000	2,25,000
Cemetery receipts	2,286	2,500	2,000	2,000
Miscellaneous	3,787	500	1,000	1,000
Total	2,30,137	2,30,000	2,43,000	2,28,000

[*Mr. Bourdillon.*]

APPENDIX B.

Bengal Provincial Expenditure in detail of minor heads.

(The figures in columns 4 and 5 are those accepted by the Government of India.)

1. *Refunds and Drawbacks*—

HEADS.	Actuals, 1892-93.	Sanctioned estimate, 1893-94.	Revised estimate, 1893-94.	Estimate, 1894-95.	REMARKS.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Provincial Rates ...	9,959	6,000	.	...	Based on the average actuals of the three years 1890-91 to 1892-93.
Salt (other than customs and excise duty)	33	.		9,000	
Customs (other than export and import duty)	902		.		
Land Revenue	12,147	26,000	..	11,000	
Stamps	1,09,295	96,000	..	1,08,000	
Excise	1,486	2,000	...	1,000	
Assessed Taxes	26,297	21,000	.	21,000	
Forest	159	1,000		1,000	
Registration ..	1,370	1,000		1,000	
Total	1,61,648	1,53,000	1,57,000*	1,55,000	*Details not communicated by the Government of India

2. *Assignments and Compensation*—

	Rs.	Rs.	Rs.	Rs.	
Malikana	1,83,861	1,61,000	1,67,000	1,79,000	The estimate for 1894-95 includes Rs. 9,000 on account of *zurdustural* payable to the Maharaja of Darbhanga

3. *Land Revenue*—

	Rs.	Rs.	Rs.	Rs.	
Charges of District Administration	29,48,987	29,43,000	30,50,000	30,70,000	Increase due to exchange compensation allowance Rs. 61,000 in 1893-94, and Rs. 99,000 in 1894-95, and also to the appointment of Additional Deputy Collectors and Sub-Deputy Collectors and their establishment
Management of Government estates	3,53,411	4,01,000	5,05,000	3,87,000	
Land Records and Agriculture ..	74,021	75,000	78,000	79,000	Increase due to appointment of a Personal Assistant to Director
Total ..	33,76,419	34,19,000	34,88,000	35,36,000	

5. *Salt*—

	Rs.	Rs.	Rs.	Rs.	
Salaries, establishment and contingencies.	1,24,595	41,000	35,000	33,000	The actuals of 1892-93 include Rs. 75,000 paid as an honorarium by Mr. Kilby for his patent scales and Rs. 15,000 for improvements of salt golahs.

[*Mr. Bourdillon.*]

6. *Stamps*—

HEADS.	Actuals, 1892-93.	Sanctioned estimate, 1893-94.	Revised estimate, 1893-94.	Estimate, 1894-95.	REMARKS.
1	2	3	4	5	6
	Rs.	Rs.	Rs	Rs.	
Superintendence	77,161	85,000	85,000	81,000	
Charge for the sale of General stamps	1,00,781	98,000	1,07,000	1,07,000	} Increase due to increased sale of stamps which involves the payment of higher commission to stamp vendors.
Charges on sale of Court-fee stamps	1,12,140	1,11,000	1,16,000	1,21,000	
Discount on plain paper	13,633	14,000	14,000	14,000	
Stamp paper supplied from Central Stores.	2,89,859	3,06,000	3,15,000	3,57,000	Increase due to increased issues which have to be paid for.
Total	5,93,554	6,14,000	6,37,000	6,82,000	
Provincial share (three-fourths)	4,45,165	4,61,000	4,77,000	5,12,000	

7. *Excise*—

	Rs	Rs.	Rs	Rs.	
Presidency Establishment.					
Administrative Establishment	67,240	67,972		71,856	Increase due to the appointment of a higher paid officer as First Inspector
Executive ditto	86,088	94,548		97,364	
District Establishment.					
Sadar Establishment	2,68,139	2,72,702		2,62,194	
Distillery ditto	61,852	68,620		62,206	
Travelling allowance	78,325	76,995		78,863	
Contingencies	95,743	1,14,143		97,397	
Total	6,50,065	7,10,000	6,50,000*	6,70,000	* Details not communicated by the Government of India.
Provincial share (one-fourth)	1,64,166	1,79,000	1,62,000	1,67,000	

8. *Provincial Rates*—

	Rs	Rs.	Rs.	Rs	
Salaries, establishment and contingencies	4,34,923	3,80,000	4,25,000	3,80,000	Estimate of the Board of Revenue with reference to revaluations in progress.

9. *Customs*—

	Rs	Rs	Rs.	Rs.	
Calcutta	5,03,672	5,12,000	5,17,000	5,58,200	Increase due to exchange compensation allowance, Rs. 11,200 in 1893-94 and Rs. 17,000 in 1894-95. Also to the entertainment of additional Preventive and Wharf establishments provisionally sanctioned in connection with the shipment and loading of goods at the Kidderpore Docks. The estimate for 1894-95 is exclusive of establishment to be entertained to administer out the new Tariff Act, the cost of which will be met from an assignment made for the purpose from the Imperial revenues.
Balasore	1,619	5,000	4,800	4,920	
Chittagong	23,084	25,500	25,000	26,470	
Cuttack	6,727	7,300	7,000	7,200	
Puri	691	700	700	720	
Puri	1,327	1,500	1,500	1,490	
Total	5,40,120	5,52,000	5,56,000	5,79,000	

10. *Assessed Taxes*—

	Rs.	Rs.	Rs.	Rs	
Collection of Income-tax	1,84,089	1,93,000	1,82,000	1,88,000	
Provincial share (one-half)	92,044	96,000	91,000	94,000	

[*Mr. Bourdillon.*]

11. *Forests—*

HEADS.	Actuals, 1892-93	Sanctioned estimate, 1893-94	Revised estimate, 1893-94	Estimate, 1894-95	REMARKS.
1	2	3	4	5	6
A—Conservancy and Works.	Rs.	Rs.	Rs.	Rs.	
Timber and other produce removed from the forests by Government agency	10,602	11,000		11,500	
Timber and other produce removed from the forests by consumers or purchaser	6,636	58,500		56,200	Increase due to anticipated larger sales.
Confiscated, drift and waif wood	2,826	2,950		3,300	
Rent of leased forests and payments to shareholders in forests managed by Government ...					
Live-stock, stones, fools and plant	17,839				
Communications and buildings	30,442	13,050		12,600	
Demarcation, improvement and extension of forests	22,343	66,650		62,800	
Miscellaneous	2,343	32,810		36,600	
		4,000		7,000	
Total A—Conservancy and Works	1,33,031	1,89,000		1,80,000	
B—Establishment.					
Salaries	2,07,951	2,46,597		2,33,200	
Travelling allowances	31,093	36,100		36,000	
Contingencies	9,217	9,503		10,800	
Total B—Establishments	2,48,260	2,92,000	*	2,80,000	*Details not communicated by the Government of India.
GRAND TOTAL OF EXPENDITURE	3,81,291	4,81,000	4,10,000	4,60,000	
Provincial share (one-half)	1,90,626	2,41,000	2,05,000	2,30,000	

12. *Registration—*

	Rs.	Rs.	Rs.	Rs.	
Superintendence	59,372	60,000	60,000	61,000	
District charges ...	6,66,841	6,74,000	7,15,000	6,99,000	Increase due to the larger commission payable to Sub-Registrars and *ex officio* Registrars consequent on increased registration.
	7,26,263	7,34,000	7,75,000	7,60,000	
Provincial share (one-half) ...	3,63,102	3,67,000	3,88,000	3,80,000	

13. *Interest—*

	Rs.	Rs.	Rs.	Rs.	
Interest on Provincial advances and loan account ..	1,21,599	1,38,000	1,39,000	1,78,000	Increase due to provision for interest payable on a loan of 15 lakhs to the Howrah Municipality for carrying out water-works

15. *Post Office, Telegraph and Mint—*

	Rs.	Rs.	Rs.	Rs.	
Post Office	7,100	3,000	8,000	8,000	Represents cost of conveyance of mails in South Lushai Hills, and cost of establishment entertained in connection with the zamindari dák in the offices of the Postmaster-General and of Deputy Postmaster-General in Bihar and Eastern Bengal, which is recoverable from the District Post Fund.

[*Mr. Bourdillon.*]

18. *General Administration—*

HEADS.	Actuals, 1892-93.	Sanctioned estimate, 1893-94.	Revised estimate, 1893-94.	Estimate, 1894-95.	REMARKS.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Salary of Lieutenant-Governor ..	96,000	96,000	1,10,000	1,00,000	
Staff and household of Lieutenant-Governor	22,773	24,000	23,000	30,000	Increase due to provision for renewal of furniture every fifth year.
Tour expenses	30,998	34,000	30,000	34,000	
Legislative Council	22,214	23,000	23,000	27,000	
Civil Secretariats	5,35,801	5,21,000	5,45,000	5,37,000	
Board of Revenue	2,84,041	2,76,000	2,90,000	2,92,000	
Commissioners	5,54,354	5,43,000	5,80,000	5,81,000	Increase due to exchange compensation allowance (Rs 35,000 in 1894-95 against Rs. 22,000 in 1893-94) to Commissioners and their subordinates.
Civil Offices of Account and Audit .	71,421	75,000	75,000	76,000	
Total ..	16,36,612	15,92,000	16,96,000	16,77,000	

19*A*. *Law and Justice—(Courts of Law)—*

	Rs.	Rs	Rs.	Rs	
High Court	11,25,000	11,40,000	11,55,000	11,75,000	Increase due to exchange compensation allowance Rs 30,000 in 1894-95.
Law Officers	2,79,000	2,90,000	2,88,000	2,93,000	
Coroner's Court	13,000	13,000	13,000	13,000	
Presidency Magistrates, &c.	63,000	63,000	63,000	65,000	
Civil and Sessions Courts	44,76,000	44,50,000	45,95,000	46,57,000	Increase due to (*a*) exchange compensation allowance (Rs 83,000 in 1894-95), (*b*) to increased charges on account of remuneration to copyists and (*c*) to process-serving charges.
Courts of Small Causes	1,80,000	1,78,000	1,70,000	1,07,000	
Criminal Courts	22,46,000	22,56,000	23,26,000	23,78,000	Increase due to (*a*) exchange compensation allowance (Rs. 91,000 in 1894-95), (*b*) to the entertainment of additional Deputy Magistrates and their establishment
Pleadership examination charges .	8,000	8,000	8,000	8,000	
Refunds	1,32,000	1,30,000	1,41,000	1,40,000	
Total ..	85,22,000	86,28,000	87,60,000	88,76,000	

19*B*. *Law and Justice—(Jails)—*

	Rs.	Rs.	Rs.	Rs.	
Superintendence	52,067	52,836		55,000	
Presidency Jail . .	97,826	98,826		1,04,500	
Central Jails	4,92,910	4,93,948		5,34,000	Increase partly due to the conversion of the Hazaribagh District Jail into a Central Jail and partly to increased provision for rations consequent on an anticipated increase of jail population.
District Jails	6,06,811	5,81,958		6,26,990	
Lock-ups	1,19,179	1,23,457		1,23,410	
Reformatory Schools	30,122	35,075		43,400	
Total Jails—Administrative charges...	14,07,924	13,84,000	14,00,000*	14,87,300	* Details not communicated by the Government of India.
Jail manufactures	7,05,593	7,05,000	6,30,000	7,50,700	
Refunds	15	...	...		
GRAND TOTAL .	21,13,532	21,79,000	20,30,000	22,44,000	

20. *Police—*

	Rs.	Rs.	Rs	Rs.	
Presidency Police	7,22,000	7,29,450	7,20,000	7,31,000	Increase due to exchange compensation allowance (Rs 11,000 in 1894-95.)
Municipal Police—(Howrah)	35,000	36,550	37,000	37,000	
Superintendence	1,38,000	1,30,000	1,40,000	1,48,000	Increase partly due to the appointment of an Assistant in charge of the Special Branch, partly to exchange compensation allowance, and partly for provision for special allowance for duties connected with anthroponetry.
District Executive Force	40,34,000	41,30,000	40,30,000	42,99,000	Increase provided to carry out improvements recommended by the Police Commission and accepted by the Government of India and also for exchange compensation allowance (Rs. 44,000 in 1894-95.)
Village Police	23,000	20,000	20,000	23,000	
Special Police	7,95,000	4,98,000	4,88,000	5,39,000	
Railway Police	1,03,000	1,09,000	1,03,000	1,06,000	
Cattle-pounds	4,000	5,000	4,000	5,700	
Refunds	2,000	10,000	2,000	3,300	
Total ..	58,46,000	56,59,000	55,50,000	58,92,000	

[*Mr. Bourdillon.*]

21. *Marine—*

Heads.	Actuals, 1892-93.	Sanctioned estimate, 1893-94.	Revised estimate, 1893-94.	Estimate, 1894-95.	Remarks.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Salaries and allowances of officers and men afloat	55,798	61,000	58,000	68,500	Increase due to provision made for the establishment of a third pilot-vessel
Victualling of officers and men afloat	16,408	18,000	16,000	23,000	Ditto ditto
Purchase of marine stores and coal for the building, repairs and outfit of ships and vessels	75,310	74,000	80,000	80,000	
Purchase and hire of ships and vessels	99,306	1,52,000	76,000	10,000	High figures in 1892-93 and 1893-94, due to the cost of the new vessel to replace the *Coleroon*. No special charge is expected in 1894-95.
Pilotage, pilot establishments and vessels	5,45,044	5,89,000	5,38,000	5,07,000	Increase partly due to exchange compensation allowance (Rs. 3,000 in 1894-95) and partly to provision for a third branch pilot to hold command of the new vessel to replace the *Coleroon*.
Marine establishments	74,169	78,000	82,000	84,800	Increase partly due to exchange compensation allowance (Rs. 4,000 in 1894-95) partly to increments to salaries, and partly to increased provision for travelling allowances.
Subsidies to steam-boat companies	33,250	18,000	18,000	19,500	
Miscellaneous .	39,247	41,000	41,000	40,200	
State Yacht establishments and contingencies ...	5,529	5,000	6,000	5,500	
Refunds	336	1,000		500	
Total ..	9,44,397	10,37,000	9,15,000	8,99,000	

22. *Education—*

	Rs	Rs.	Rs	Rs.	
Direction	60,760	63,000	64,000	68,000	Increase due partly to exchange compensation allowance (Rs 3,000 in 1894-95) and partly to increased provision and salary for the return of the permanent incumbent from leave.
Inspection ...	3,55,280	3,55,000	3,54,000	3,63,000	Increase partly to provide for exchange compensation allowance (Rs. 5,000 in 1894-95), and partly on account of establishment employed under Deputy Inspector of Schools.
Government Colleges, General ..	4,99,421	5,20,000	5,06,000	5,36,000	Increase chiefly for exchange compensation allowance (Rs 30,000 in 1894-95), and partly for increased provision for the purchase of stores for English and Oriental Colleges and an additional officer for the Dacca College.
Ditto, Professional	1,16,963	1,21,000	1,15,000	1,20,000	
Government Schools, General .. .	5,32,498	5,47,000	5,35,000	5,30,000	
Ditto Special	1,48,894	1,45,000	1,48,000	1,50,000	
Grants-in-aid	5,87,188	5,80,000	5,80,000	6,35,000	Increase due to larger grants to primary schools
Scholarships ...	1,89,627	1,93,000	1,91,000	1,93,000	
Miscellaneous	47,246	40,000	42,000	46,000	Increased expenditure on the higher training of young men and on the payment of rewards to teachers and pupils in Sanskrit tols, &c.
Refunds	5,595	2,000	4,000	4,000	
Total ...	25,37,481	25,78,000	25,45,000	26,40,000	

24. *Medical—*

	Rs.	Rs	Rs	Rs	
Medical establishment	5,97,539	5,86,000	6,22,000	6,33,000	Increase due to exchange compensation allowance (Rs. 48,000 in 1894-95)
Hospitals and dispensaries	4,04,035	3,83,000	4,27,000	4,13,000	Ditto ditto (Rs. 7,000).
Sanitation and vaccination	1,90,358	1,92,000	2,08,000	2,13,500	
Grants for medical purposes . .	4,077	3,500	4,000	4,000	
Medical Schools and Colleges . .	2,65,343	2,68,000	2,82,000	2,80,800	Increase due to exchange compensation allowance, Rs. 14,000.
Lunatic Asylum	1,12,085	1,10,000	1,14,000	1,15,000	
Special Hospitals	15,805	16,000	16,000	16,000	
Chemical Examiner	22,028	26,000	26,000	27,700	Increase due to the appointment of an Additional Assistant Chemical Examiner.
Refunds	321	500	1,000	1,000	
Total .	16,12,491	15,85,000	17,00,000	17,04,000	

[*Mr. Bourdillon.*]

25. *Political—*

HEADS.	Actuals, 1892-93.	Sanctioned estimate, 1893-94.	Revised estimate, 1893-94.	Estimate, 1894-95.	REMARKS.
1	2	3	4	5	6
	Rs	Rs	Rs	Rs.	
Entertainment of Envoys and Chiefs	1,471	9,000	1,000	9,000	
Durbar presents and allowances to vakeels, &c.	3,052	17,000	10,000	17,000	
Miscellaneous .. .	7,977	3,000	5,000	3,000	
Total .	12,500	29,000	16,000	29,000	

26. *Scientific and other Minor Departments—*

	Rs	Rs.	Rs	Rs	
Provincial Museums	25,434	16,140	20,000	18,200	
Donations to Scientific Societies	14,000	14,000	14,000	14,000	
Experimental cultivation	18,750	19,500	20,000	21,500	
Cinchona plantations	1,05,347	1,03,550	1,60,000	1,75,000	Increase partly due to the provision of Rs 50,000 as part of the purchase money of the Nuddong Cinchona Plantation which is to be paid in three years, and partly also for the maintenance of the Plantation
Public Exhibitions and Fairs	2,080	12,370	12,000	2,000	The figures for 1893-94 include a special contribution of Rs 10,000 on account of representation of Indian tea at the Chicago Exhibition
Imperial Institute	4.80	500	1,000	...	
Veterinary charges . ..	2,284	19,000	9,000	22,000	Increase due to provision made for the keep of cattle and horses which it is expected will be sent to the hospital by private persons on payment.
Botanic and other Public Gardens	1,06,775	1,10,000	1,10,000	1,14,100	
Emigration . .	22,705	22,760	24,000	24,500	
Census .	1,511	1,700	3,000	2,000	
Registration of railway traffic	5,264	2,320	4,000	3,500	
Registration of river and road-borne traffic ...	17,470	18,110	18,000	18,000	
Provincial statistics	2,037	2,500	8,000	5,200	
Examinations .. .	2,809	3,000	3,000	3,000	
Refunds	570	170	...	500	
Charges in connection with the Indian Factories Act	13,250	18,400	18,000	19,500	
Total ..	3,40,665	3,64,000	4,23,000	4,42,000	

29. *Superannuation—*

Superannuation and retired allowances	16,71,133	17,20,000	17,13,000	18,20,000	Based on actual claims subject to transfers and lapses by the death of grantees.
Compassionate allowances ...	25,711	22,000	20,000	22,000	
Gratuities	6,024	8,000	*17,000	8,000	* The revised estimate for 1893-94 includes a payment of Rs 10,000 to Captain E. W. Perley for loss of appointment of Port Officer, Calcutta.
Bonus to officers of the Public Works Department.	..		...	..	
Refunds			.	..	
Total ..	17,02,868	17,50,000	17,50,000	18,50,000	

30. *Stationery and Printing—*

	Rs.	Rs.	Rs.	Rs.	
Stationery Offices at the Presidency ...	1,53,282	1,33,530	1,60,000	1,59,000	Increased expenditure on account of packing freight, &c.
Stationery purchased in the country	70,456	70,000	70,000	70,000	
Government presses	3,63,405	3,96,300	4,00,000	3,76,000	Increase due to a provision of Rs. 20,000 for strengthening the Account Department of the Secretariat Press.
Printing at private presses .. .	871	...	1,000	... .	
Stationery supplied from Central Stores	7,70,389	7,53,000	7,75,000	7,70,000	Increase based on actuals.
Refunds	486	2,170	...	4,000	
Total	13,58,300	13,05,000	14,06,000	13,76,000	

[*Mr. Bourdillon.*]

32. *Miscellaneous —*

Heads.	Actuals, 1892-93.	Sanctioned estimate, 1893-94.	Revised estimate, 1893-94.	Estimate, 1894-95.	Remarks.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Travelling allowances to Officers attending examinations	3,557	3,000	4,000	4,000	
Rewards for proficiency in Oriental languages and allowance to Language Examination Committee	4,000	8,000	8,000	6,000	
Cost of books and publications	694	1,000	1,000	1,000	
Donations for charitable purposes	94,340	1,05,000	95,000	1,00,000	Includes provision for the annual contribution of Rs 8,000 for the maintenance of the Albert Victor Leper Asylum.
Charges on account of European vagrants	6,029	5,000	5,000	6,000	
Rewards for destruction of wild animals	18,593	17,000	17,000	18,000	
Petty establishment	30,452	29,000	31,000	29,200	
Special Commissions of Enquiry	1,791	1,000		10,000	
Rents, rates and taxes	20,914	24,000	40,000	24,000	
Miscellaneous and unforeseen charges	23,064	20,500	28,000	22,500	
Miscellaneous refunds	3,515	10,000	3,000	4,000	
Contract contingencies - Magistrates' miscellaneous.	..	6,500	1,000	1,400	
Total	2,11,670	2,29,000	2,35,000	2,27,600	

40. *Subsidised Company's Land, &c.—*

	Rs	Rs.	Rs	Rs	
Law charges in connection with the Duars Railway	25,756	1,000	3,000	.	

41. *Miscellaneous Railway Expenditure—*

	Rs.	Rs	Rs	Rs.	
Sultanpur-Bogra Railway Survey			1,000	.	A grant of Rs 1,206 was sanctioned to adjust the charges incurred by the Manager of the Eastern Bengal State Railway for establishment employed in marking out the land for the Sultanpur-Bogra Railway.

42. *Irrigation Major Works (Working Expenses)—*

	Rs	Rs	Rs.	Rs
Orissa Canals	4,75,507	4,30,000	.	4,70,000
Midnapore Canals	1,86,577	2,29,000		2,50,000
Hidjli Tidal Canal	31,776	5,000		50,000
Sone Canals	7,01,483	6,84,000		7,00,000
Total	15,95,343	13,98,000	14,25,000	14,70,000

42. *Irrigation Major Works (Interest on Debt)—*

	Rs.	Rs.	Rs.	Rs.
Orissa Project	9,01,531	10,08,000		
Midnapore Canal	3,23,593	3,30,000		
Hidjli Tidal Canal	71,829	72,000		
Sone Project	10,30,402	10,18,000		
Total	24,23,353	24,48,000	24,43,000	24,69,000

[*Mr. Bourdillon.*]

43. *Minor Works and Navigation in charge of the Public Works Department—*

HEADS.	Actuals, 1892-93.	Sanctioned estimate, 1893-94.	Revised estimate, 1893-94.	Estimate, 1894-95.	REMARKS.
1	2	3	4	5	6
Works for which Capital and Revenue Accounts are kept.	Rs.	Rs.	Rs.	Rs.	
CAPITAL.					
Calcutta and Eastern Canals	72,923			44,000	
Hijili Tidal Canal	98,319	1,00,000		1,25,000	
Orissa Coast Canal	2,400	1,25,000		25,000	
Damodar Project	−1,260	..		.. ..	
Orissa Canals	.....	.....		30,000	
Sone Canals	.....	.		6,000	
Total Capital .	1,12,502	2,25,000		2,26,000	
REVENUE.	Rs.	Rs.	Rs.	Rs.	
Orissa Coast Canal	76,322	69,000	... ..	71,000	
Calcutta and Eastern Canals	2,39,751	2,70,400	.	2,75,700	
Baran Canals	13,502	20,300	..	20,300	
Total Revenue ..	3,29,575	3,59,700	..	3,67,000	
Total Works for which Capital and Revenue accounts are kept . .	4,42,077	5,84,700		5,93,000	
Works for which only Revenue accounts are kept.					
Nadia rivers	1,23,072	1,01,000		1,22,000	
Works for which neither Capital nor Revenue accounts are kept.					
Eden Canal	37,230	97,900	.....	1,08,000	
Tour Canal	10,032				
Total Works for which neither Capital nor Revenue accounts are kept ..	47,262	97,900	...	1,08,000	
Total Irrigation and Navigation Works	6,12,411	7,83,600	... ..	8,23,000	
Agricultural Works.					
Government embankments and works for the improvement of Government and escheated estates .	6,32,520	7,74,400	.....	7,49,000	
Midnapore takavi embankments under contract	55,087		.....		
Gantak takavi embankments under contract	63,920		.....		
Works in charge of civil offices					
Total Agricultural .	7,81,750	7,74,400		7,49,000	
GRAND TOTAL ...	13,94,161	15,58,000	* 14,75,000	15,72,000	Details not communicated by the Government of India.

45. *Civil Works in charge of Public Works Department—*

	Rs.	Rs.	Rs.	Rs.	
Original works	12,01,732	11,05,952	.....	.....	
Repairs	8,40,437	8,91,782	. ..	. . .	
Establishment	7,19,896	7,06,040	.. ..	.. .	
Tools and Plant	26,907	39,226			
Suspense	−74,104		.. *	.. *	* Details not communicated by the Government of India.
Total .	27,23,928	27,43,000	25,38,000	26,36,000	

[*Mr. Bourdillon; Mr. Cotton.*]

45. *Civil Works in charge of the Civil Department*—

Heads.	Actuals, 1892-93.	Sanctioned estimate, 1893-94.	Revised estimate, 1893-94.	Estimate, 1894-95.	Remarks.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Ferry charges	5,305	12,000	10,000	10,000	
Contributions	34,285	50,000	50,000	50,000	
Refunds	20,331	20,000	20,000	20,000	
Civil Buildings.					
New works	(a) 5,007	.....	.....	.....	(a) Represents the cost of constructing a new circuit-house at Dhenkanal, Cuttack.
Communications.					
Repairs	(b)2,010	....	.....	.....	(b) Represents the cost of repairs of the Bura road
Miscellaneous Improvements.					
New works	(c) 53,238	....	...	..	(c) Represents the cost for the purchase of the cantonment lands at Lebong spur.
Repairs	...	...	...	..	
South Lushai Hills	57,226	92,000	50,000	58,000	
Improvement at Hastings		41,000	41,000	...	
Total ..	1,81,202	2,25,000	1,90,000	1,38,000	

CALCUTTA PORT ACT, 1890, AMENDMENT BILL.

The Hon'ble Mr. Cotton moved for leave to introduce a Bill to amend the Calcutta Port Act, 1890. He said:—

"Under section 113 of the Port Act of 1890, it is enacted that the Port Commissioners shall immediately, after the landing of any goods, take charge of them and store such as are liable to suffer from exposure in sheds or warehouses belonging to the Commissioners. It is not quite clear whether, under this section, the responsibility imposed upon the Port Commissioners applies to all goods which may be taken charge of by them and stored in their godowns. The expression used in the Act is 'any goods,' and the question has arisen whether it applies to the storage of petroleum in the Port Commissioners' sheds at Budge-Budge. The difficulty has arisen in this way: The Port Commissioners have, for the public convenience, erected sheds capable of accommodating twelve lakhs of cases of petroleum at Budge-Budge, and this accommodation has been shown by experience to be ample for the purposes of ordinary trade. But within the last few days there has been a block owing to the extra duty imposed upon petroleum, and I am informed that, at the present moment, the number of cases stored at the Port Commissioners' premises at Budge-Budge exceeds fifteen lakhs, that is to say, a very large number of cases are now stored in the open, and as such are

undoubtedly liable to suffer from exposure. Now, there is a special Act and ther are special rules having the force of law which relate to petroleum; and wer there no other reason, it would be doubtful on this account whether section 11 of the Port Act would apply to the storage of petroleum. But the importar point to settle is that it does not apply to goods which the Commissioners do nc land. The Port Commissioners have taken the advice of Counsel upon this point and, with the permission of the Council, I will read the opinion given b the Hon'ble Sir Griffith Evans on it. Sir Griffith Evans wrote:—'I think a amendment should, without delay, be made in Act III of 1890, section 113, whic at present makes the Commissioners liable to store goods which they do no themselves land—a result which could hardly have been intended, and make them liable in respect of all sorts of goods at their other wharves which the do not land. They do not land petroleum. It would be sufficient, in order t get rid of the difficulty, to insert the words "by them" after the word "land ing" in clause (*1*) of section 113.' It is in accordance with the advice given b Sir Griffith Evans in this opinion to the Port Commissioners that the Governmen have deemed it necessary to introduce a Bill in order to declare distinctly tha it is only in respect of goods landed by the Port Commissioners themselves tha the responsibility imposed under clause 1 of this section applies. The law a altered will then apply to all goods which are landed by the Port Commissioner themselves, but it will relieve the Commissioners of responsibility in respect o goods, such as petroleum at Budge-Budge, which are not landed by the Port Commissioners. The matter is an urgent one, inasmuch as all the cases not now stored in sheds lie in the open and are undoubtedly liable to damage should storms occur, or any other accident befall them to which goods lying in the open are always liable. The Commissioners are advised, and the Government have accepted the opinion, that it is eminently desirable that no delay should be allowed to occur in passing this Bill through the Council; and therefore it stands in my name, not only to ask for leave to introduce a Bill, but to introduce it, and also to ask the President to suspend the Rules so as to allow it to be passed at this day's sitting. The exact form of the Bill consists merely in the insertion of the two words 'by them' after the word 'landing' in clause (*1*) of section 113, in order to make it clear that the clause relates to goods landed by the Commissioners and by no other people."

The Motion was put and agreed to.

The Hon'ble MR. COTTON also applied to the President to suspend the Rules of Business.

The Hon'ble THE PRESIDENT having declared the Rules suspended—

The Hon'ble MR. COTTON introduced the Bill and moved that it be read in Council. He said:—

"I have only to add one remark to the statement I have already laid before the Council, and that is that the learned Advocate-General has also been invited by the Port Commissioners to express his opinion on the difficulty which has arisen, and that the Hon'ble SIR CHARLES PAUL'S advice is identical with that of Sir Griffith Evans which I have already read."

The Hon'ble MR. STUART said:—"I have a few remarks to make upon this Bill. My position in this connection is a dual one; because, as a member of the Port Commission, it is my duty to see that no claims are made upon the Port Trust which were not contemplated or which are not equitable, and on the other hand, as a representative of the merchants, I have to see that advantage is not taken by the Port Commissioners, who hold a monopoly of storage room to the undue disadvantage of the merchants. The present excessive quantity of oil, as I understand in the sheds, is not entirely due to keeping back sales by dealers. To some extent that has been the case; but I believe that considerable deliveries are taking place since the Tariff Act was passed, and I am assured by importers that, in the future, very large stocks of oil will continue to be held at Budge-Budge. However, in acquiescing in the passing of this Act, I do so in the belief that it will make no difference in the actual intention of the Act, and also I believe that the Port Commissioners will take immediate steps to provide increased accommodation for future oil imports, as the quantity of oil now upon the water was considerably in excess of any possible means of storage the Port Commissioners have now got."

The Motion was put and agreed to.

The Bill was read accordingly.

The Hon'ble MR. COTTON said:—"The Rules having been suspended, I have now the honour to move that the Bill be passed. In doing so, I think I should read another portion of the Hon'ble Sir Griffith Evans' opinion which bears particularly on this point:—

'The matter is very urgent, as there are over 3 lakhs of cases outside the sheds, and the owners have given notice that they will claim for any damage from exposure, and if rain

comes, there may be some lakhs of rupees damages. It is not wise to run the risk of taking the judgment of the Court upon this point, and the risk can only be avoided by an immediate amendment of the Act. As the amendment would only be of two words, and would be carrying out the probable meaning of the Act, and it is eminently reasonable and the risk is very imminent, it is probable that the Lieutenant-Governor would suspend the standing orders and pass the Bill at once.'

"The reasons for urgency are fairly explained in these words. Speaking on behalf of the Government, I think I may say that we could not allow such a measure as this to be passed at one sitting of the Council were we not satisfied that the legislation which is proposed will in effect be carrying out the intention of the existing law. There can be no reasonable doubt that the law was intended to apply to goods landed by the Port Commissioners, and to none other and we are advised that that is the meaning to be attributed to the existing law. But as a doubt exists regarding it, and the law is capable of being construed in more ways than one, the present Bill is introduced in order to make the point perfectly clear."

The Hon'ble SIR CHARLES PAUL said:—"I think there can be no doubt that this measure is an urgent one. Section 113, when properly read, implies that the 'landing' meant is by the Commissioners. It says:—'The Commissioners shall immediately upon the landing of any goods take charge thereof.' It never could have been intended that when goods are landed by other persons and is in their possession, the Commissioners shall, by taking them out of such possession, take charge thereof; therefore it is pretty plain that the landing in section 113 means landing by the Commissioners. The words are unfortunately so wide as possibly to induce some court of justice to hold a different view, and should such a view be entertained, heavy responsibility would be incurred by the Commissioners in regard to a matter as to which no liability was intended. This Act provides for the landing of goods alongside of the wharves or jetties of the Commissioners; and under the Port Act of 1876 (which this Act cannot in any way affect) oil must be landed at Budge-Budge. The Port Act refers to the place of landing and to the mode of landing, and it may possibly be said that there is a doubt as to whether landing does not refer to all landing. The opinion given by Sir Griffith Evans was put before me, and I arrived at the same conclusion, first, that it would be a matter of great moment to the Port Commissioners to have the wording of this section made precise, in order to

preclude their liability for goods not landed by them. It must always be remembered that all people do not look at the same thing with the same eyes. Some people's eyes have the microscopic attribute of looking at things so minutely as to throw a doubt upon everything which has ever been written. It is for that reason that the Port Commissioners wish to guard themselves against the possibility of liability. Then, with regard to the urgency of the matter, there cannot be any doubt. At present there is a block at Budge-Budge, and there are other ships coming into port with petroleum. I have no doubt that the Commissioners will do their best to assist the public by erecting more sheds, but in the meantime there is a block, and a possible responsibility is thrown on them, which they naturally wish to avert. It is therefore quite clear that the matter is urgent. It being the fact that the liability was never intended to be imposed upon the Commissioners, but that owing to the general language of the section that liability would and might be attempted to be thrown upon them it is nothing but fair that the Legislature should make their intention clear. On that subject I apprehend that not a single member of this Council will entertain any doubt. For these reasons, I think, both the necessity for legislation and the urgency of it will be admitted."

The Hon'ble THE PRESIDENT said:—"The Government has been asked by the Port Commissioners of Calcutta to allow this Bill to be passed through Council at a single sitting. The Bill has not been long under consideration, and it has been hastily prepared on account of a sudden emergency. On these grounds, there might have been, in the eyes of hon'ble members, some hesitation as to whether they are sufficiently prepared against the unforeseen to justify them in taking this step. But considering the opinions they had just heard expressed by the most eminent legal adviser of this Council that the amendment is one which will only carry out the spirit and intention of the original Act, and considering what we have heard from the hon'ble member who represents the mercantile community of Calcutta, and who is also a Port Commissioner, who tells us that in his opinion this Bill will not cause injustice to importers of petroleum, and that the Port Commissioners will take all possible steps they can to prevent inconvenience to importers, I venture to think that we are not incurring undue responsibility if we accede to the request of the Port Commissioners and pass this Bill into law on the present occasion."

The Motion was put and agreed to.

THE REVENUE SALE BILL.

The Hon'ble MR. BUCKLAND moved for leave to introduce a Bill to amend the Revenue Sale Law. He said :—

"As it is my intention to ask you, Sir, to suspend the Rules of Business to enable me to introduce a Bill to amend the Revenue Sale Law at this meeting, I do not propose to offer any observations at the present stage. I merely now move for leave to introduce the Bill."

The Motion was put and agreed to.

The Hon'ble MR. BUCKLAND also applied to the President to suspend the Rules of Business. He said:—

"It is considered desirable that a Bill of such importance and of so ~~vague~~ a character should receive the fullest consideration from all those whom it may affect, and that object it is thought would best be attained by referring the Bill at once to a Select Committee. When Bills are introduced they are according to Rule published in the Gazette. It is expected that the Select Committee would, as was done in the case of the Drainage Bill, pick out the points of special importance on which the opinions of the district officers and of the public associations interested in the subject of the Bill should be sought. There is no intention whatever of proceeding with this Bill with any undue expedition and it will probably not be taken actively into consideration until the next cold weather."

The Hon'ble THE PRESIDENT said :—"I declare the Rules to be suspended. I make this declaration in full conformity with what has fallen from the Hon'ble MR. BUCKLAND, that it is not the intention of the Government to hurry the Bill through the Council with undue speed, and this step is taken merely to pass the Bill through its formal initial stages at once and to enable us to place it before the public immediately so as to obtain opinions on the different important points at an earlier stage than if we postponed these stages for one or two subsequent meetings of the Council."

The Hon'ble MR. BUCKLAND introduced the Bill and moved that it be read in Council.

The Motion was put and agreed to.

The Bill was read accordingly.

[*Mr. Buckland.*]

The Hon'ble MR. BUCKLAND also moved that the Bill be referred to a Select Committee consisting of the Hon'ble MESSRS. ALLEN and LYALL, the Hon'ble MAHARAJA RAVANESHWAR PROSAD SINGH BAHADUR OF GIDHOUR, the Hon'ble MAHARAJA SIR LUCHMESSUR SINGH BAHADUR OF DARBHANGA, the Hon'ble MAHARAJA JAGADINDRA NATH ROY OF NATOR, the Hon'ble MR. GHOSE and the MOVER. He said :—

"As the Bill to amend the Revenue Sale Law is formally before the Council, I rise now, Sir, to make an explanatory statement before moving that it be referred to a Select Committee. I will not tax the patience of the Council more than I can help; and, though I have to advert to the origin of the main principle of the existing law, I shall touch very lightly on its ancient history. In Lower Bengal, everything goes back to the Permanent Settlement of 1793. A reference to section 7 of Regulation I of that year will show that it was distinctly declared that in the event of any zamindar, independent talukdar or other actual proprietor of land, with or on behalf of whom a settlement might be concluded, failing in the punctual discharge of the revenue assessed on his land, a sale of the whole of the lands of the defaulter or such portion of them as might be sufficient to make good the arrear, would positively and invariably take place. This is the cardinal principle of the Sale Law. Since the Permanent Settlement the following Regulations and Acts have been passed, down to the main Act now in force for the realization of the land revenue in the Lower Provinces:—Regulations 14 of 1793, 3 of 1794, 5 and 12 of 1796, 7 of 1799, 1 of 1801, 12 of 1805, 5 of 1812, 18 of 1814, 11 of 1822, 12 of 1824, 7 of 1830; Acts 12 of 1841, 1 of 1845, 11 of 1859. I mention them to show that they have not been overlooked rather than from any desire to refer to them in any detail. An analysis of them would be interesting, but would occupy too much time. I will merely state that the Act of 1841—48 years after the Permanent Settlement—settled the general principles by which sales of land for recovery of arrears of revenue were to be regulated. Its provisions were re-enacted with slight modifications in Act I of 1845, and are still to be found in almost their original form in Act XI of 1859. The occasion for the Act last mentioned arose, not so much from any necessity of altering the law of 1841, or remedying defects which time had brought to light in the working of the law, as from the expediency of affording protection to new interests which had sprung into existence during a further period of progress and prosperity. It may,

therefore, be laid down as an axiom that the main principles of the law which have stood the test of 50 years should not be disturbed. Again, a glance at this list of laws will serve my purpose to point out that the existing law, Act XI of 1859, has been in force much longer than any of its predecessors, though it, too, soon required and obtained support in some details from the auxiliary measures—Acts III (B.C.) of 1862, VII (B.C.) of 1868, II (B.C.) of 1871 and I (B.C.) of 1875. Act VII (B.C.) of 1868 was half repealed by Act VII (B.C.) of 1880, the Public Demands Recovery Act, now in force. The main principles of the law were not affected by those Acts. It will help the Council, I think, and anybody who has comments to offer on the Bill, if I briefly enunciate the main points of the existing law for the recovery of the land revenue as contained in the several Acts in force. At the Permanent Settlement it was arranged that the land revenue should be paid by monthly instalments. It has been defined by law since 1841 that when the whole or a portion of one of these instalments remains unpaid on the first of the following month of the era of the settlement, the sum so remaining unpaid is considered an arrear of revenue. The collection of such arrears is the main function of the sale law. By the law, latest days of payment are to be fixed on which all such arrears must be paid, and, in default of payment of the arrears in full by sunset on the latest days of payment, the estates or shares of estates in arrear are to be sold at public auction. These latest days of payment are for the most part fixed at four dates in the year. The meaning of this is, that the zamindars have been allowed the privilege of paying four times a year, instead of by monthly instalments. When these latest days of payment have passed, notifications are issued with lists of the estates or shares in arrears, and a date is fixed for the sale of such estates or shares to take place. Hitherto it has not been the general practice for any notice of their default to be sent to defaulting proprietors, though Collectors may, by section 6 of Act VII (B.C.) of 1868, be empowered to send them, but a proclamation is issued to the raiyats forbidding them after a certain date to pay rents to the defaulting proprietor. The law at the same time provides means by which proprietors and other persons than the proprietors can save their estates or their interests from sale, for instance, by making deposits, and recorded sharers may open separate accounts with the Collector, and in the latter case, the entire estate is not sold if the sale of the defaulting share satisfies the arrear of revenue due from it. Certain estates, such as those under the Court of Wards or under

attachment, receive special protection. Though the law lays down that defaulting estates shall be sold, it gives the Collector and Commissioner discretionary power to exempt an estate or share from sale at any time before the sale has commenced, and Collectors have been permitted to exercise this right until the fall of the hammer at the auction. The law then provides for the payment by the auction-purchaser of a deposit of a portion of the purchase-money, and subsequently of the full amount, and for a re-sale under certain circumstances. It also authorises a defaulting proprietor to appeal to the Commissioner to have a sale annulled, and the Commissioner's order on such appeal is final. But it is open to a Commissioner on the ground of hardship or injustice to suspend passing final orders in appeal and to move the Board to recommend Government to annul the sale. This is done whenever required. Supposing the sale to have become final by course of law, the purchaser receives a certificate of title and formal delivery of possession. Every such certificate of title is to be conclusive evidence of regularity in the service of all notices; and the law clearly intended that no title should be impeached by reason of any informality or irregularity in these notices. Nothing can be done by the ousted proprietor to recover his estate except by a suit within a limited time in the Civil Court, upon the grounds of disregard of the provisions of the Act and substantial injury caused by the irregularity. The Collector applies the purchase-money first to the liquidation of arrears of revenue, then of all outstanding demands on the estate, and holds the surplus sale proceeds in deposit for the benefit of the late recorded proprietor.

"The purchaser of an estate in a permanently-settled district acquires it free from encumbrances, and can annul all under-tenures and eject all under-tenants with certain exceptions. Hitherto it has been possible for new talukdari and other similar tenure-holders, *i.e.*, those holding tenures direct from the proprietors, to protect their tenures from annulment and themselves from ejection by registering their rights in specified methods within three months of the constitution of the tenures. For various reasons, much advantage has not been taken of these provisions. Under certain circumstances, that is, when there is no other bid for an estate put up to auction, Government may purchase it. By Act VII (B.C.) of 1868, tenures paying revenue to Government can be sold up for arrears in the same way as estates can be sold under Act XI of 1859.

"These are the main features of the existing Revenue Sale Law. Its importance is unquestionable, and it may fairly be claimed that it works with smoothness and efficiency. Its importance is proved by the fact that there were, according to the Board's last Land Revenue Report, 158,205 permanently-settled estates, yielding a current demand of Rs. 3,22,63,793 of land revenue, and 9,562 temporarily settled estates yielding Rs. 27,10,912 land revenue. I will not quote the figures in the Board's Cess Report, which shows a million and a quarter tenures and two million and a third recorded shareholders in tenures, because those figures include revenue-free estates, but it may be accepted that the revenue-paying tenure-holders are very numerous indeed. All of these persons, it may safely be said, are interested in the sale law as it is and as it may be amended. Again, according to the Board's last report, whereas 16,913 estates, shares and interests became liable to sale for arrears of Government dues, only 1,355, or 8 per cent. of those liable to sale were actually sold, *i.e.*, about ·58 per cent. of the total number of estates and shares opened. This is good evidence that the law is not enforced with any excessive frequency.

"It would be wonderful if a law which has been developed by stages during 100 years, so much used and subjected to such constant criticism, did not in the course of time exhibit weak points, in which improvement would be admissible. Very few projects of law have been the subject of so much attention and enquiry as this Bill has been by reason of its widely extended application. I will allude briefly to the earlier enquiries, from which the changes now advocated really sprang to some extent. In referring to the previous correspondence, I wish to bring out clearly three points—*firstly*, that the whole subject has been very fully considered; *secondly*, that Government has, as Government, very little interest in passing the measure; *thirdly*, that the chief objects of legislating at all are to improve the law in respect of the facilities afforded to the zamindars and others concerned. The papers are very voluminous, amounting to 370 large pages: the correspondence has extended over 23 years. I find that in 1871, Sir George Campbell, when reviewing the Board's Land Revenue Report for 1869-70, called for a special report on the working of the sale law. He particularly wished to know whether the sales were really on account of inability to pay or in order to give a good title to the purchaser, and whether the effect had been to cause hardship

to the holders of under-tenures or much litigation regarding them. He also asked whether the provisions of the law for registration and protection of under-tenures were operative and to what extent, and if not, why not; and whether any further provision was required. The Board replied that sales rarely took place owing to the inability of the proprietors to pay the Government demand thereon, the only exception being in those cases in which the estate or a large portion of it might have diluviated. Sales chiefly took place, it was said, owing to disputes among the minor share-holders and the desire of proprietors to obtain the highest value for their property, when owing to extravagance or other causes sales became necessary. By sales a good and certain title could be obtained, so that the utmost value of the land was realized. It was reported that sales did not practically cause much hardship to under-tenure-holders who were not as a rule interfered with under the law. The provisions of the law for the protection and registration of under-tenures were not utilized as much as had been expected. But the Board were willing to allow an under-tenant to deposit the arrears due from the estate at any time before the day of sale.

"The Board in 1872 considered the working of the law most beneficial, and deprecated altering a law with which the people were acquainted, and which entailed very rare instances of individual hardship, and such too as local authorities could remedy. 'The punctuality with which the Government demand must be met under pain of forfeiture of the estate in arrears induces habits of forethought and thrift, and tends to check the spirit of extravagance and recklessness which a knowledge that under a less stringent system the payment can be deferred from time to time is apt to create.' The Board thought that no other system of enforcement of the Government demands would be so beneficial or prove so acceptable to the people

"Accordingly the matter dropped for the time. In 1874, Sir Richard Temple renewed the enquiries on the working of the law. In this Council, on the 19th December, 1874, he stated, after enquiries had been made from zamindars in various parts of the country, that he did not find that the law operated with any excessive harshness. He mentioned two points in which improvement might be possible—(*1*) that some notice should be given to defaulting zamindars before their estates are advertised for sale, and (*2*) that sometimes estates are advertised for sale for arrears for very small amounts. He thought it possible to insert

some conditions to this effect in the existing law, provided always that any failure to fulfil such conditions on the part of the Revenue authorities should not affect the validity of the sale which might have to be carried out. On April 10th, 1875, again, Sir Richard Temple spoke in this Council of a brief amending Act. The Board asked for instructions. In July, 1874, a Government circular had been issued calling for a statement of the history of each estate or share advertised for sale for arrears in 1872-73. The replies showed that only 298 were sold, *i.e.*, 10·6 of the number liable to sale, or 0·12 per cent. of all the estates on the revenue roll. In a Minute, dated the 26th August, 1875, Sir Richard Temple reviewed the question of the necessity for legislation, and mentioned that he had not learnt that any considerable grievance was felt by the zamindars. The only complaints he had heard of related (*1*) to the advertisement of estates for sale for comparatively trivial arrears, and (*2*) to defects in sending notice to defaulters respecting the occurrence of the arrear and the several stages in the procedure of the sale. The idea of immediate legislation was abandoned, but the British Indian Association were asked to state what alterations they considered to be needed in the sale law. In November, 1875, that Association made three suggestions for the amendment of the law, (*1*) that a mortgagee might be allowed to register his name and interest in the Collectorate, and in case of default that a notice might be served upon him giving him option to pay in the revenue within a prescribed time, after which the sale should take place; (*2*) that the proprietor might be allowed to register in the Collectorate the name of the patnidar and the conditions of the tenure, and in case of default of payment by the patnidar notice should be served upon the proprietor giving him time to pay in the revenue; (*3*) that when zamindars' muktars play them false, wide discretion should be given to the Board to receive the Government demand after due date. The British Indian Association recommended no radical changes. They wrote of the law:—

'Although it is extremely rigorous, it has not been without substantial advantages. It has ensured the punctual payment of revenue, and taught the zamindar habits of providence and regularity.' They asked for a certain degree of leniency in its administration. The Government of the day accepted the proposal that a mortgagee should be permitted to register his name and interest in the Collector's books, and that, in case of default of payment by the mortgagor, a notice should be served on the mortgagee permitting him to pay

in the arrears within a specified time. In section 52 of Act VII (B.C.) of 1876, provision was made for the registration of the mortgagee's interest. But Government declined to accept any other person, such as the patnidar, other than the zamindar as primarily responsible for the payment of the land revenue. The third proposal was accepted and provided for by circular orders.

"For some years, while the Rent Law of the Province was under consideration, the question of amending the Revenue Sale Law remained untouched. In 1883, the Board brought to notice the provision contained in section 27 of Act XI of 1859, by which sales which have once become final and conclusive cannot be interfered with either by the Board or by Government, except in special cases. The Lieutenant-Governor desired that the state of the law should be more fully considered, in communication with the Law Officers of Government. In a case which came before the Board in that year, they expressed their views that the policy of the Legislature was to put an early end to the uncertainty which must attend a purchase at a revenue sale as long as the higher executive authorities have the power of interfering to set it aside, and so to secure a higher price for estates so sold. Again, in 1884, the Board adverted to the subject, and Mr. Dampier thought that something more might be done without material risk to the public revenues for giving security to tenures and encumbrances generally on estates on the model of sections 38 *et seq.*, which protect talukdari and other similar tenures. He mooted the idea of putting up an estate to sale in the first instance subject to registered and declared encumbrances only, and afterwards to sale with power to avoid all encumbrances, if the arrears had not been realized by the first sale. He pointed out that this proposal followed the system provided for the sale of tenures for arrears of rent inserted in the Tenancy Bill, and that shares of estates are sold under Act XI of 1859 subject to all existing encumbrances. The Lieutenant-Governor was then too busily engaged with the Tenancy Bill, but expressed his intention of taking up this subject if set free to attend to other matters on the passing of that Bill.

"In 1885, Mr. Reynolds, who had succeeded to the Board, submitted three definite proposals, after premising that the Tenancy Act had given legislative recognition to the principle that the sale of a tenure for arrears of rent shall be held subject to registered encumbrances. I will here quote the proposals but with the warning that the first two of them were withdrawn by Mr. Reynolds

in February, 1889. They were (*1*) (as Mr. Dampier had suggested) that estates in respect of which a default has occurred in the payment of revenue should in the first instance be put up to sale, subject to declared and registered encumbrances, and should be sold with power to avoid encumbrances only in the event of the bidding at the first auction being insufficient to cover the outstanding demand with costs; (*2*) that, where a Commissioner dismisses an appeal and does not exercise his power of reporting the case under section 26 with a view to the sale being set aside by Government on the ground of hardship, the appellant should be allowed to make a further representation to the Board; (*3*) that the law as to delivery of possession to auction-purchasers be amended so as to remove doubts which had been expressed in some quarters regarding the legality of the present practice. These were criticised by Government in November, 1887, when it was for the first time suggested for consideration whether the cess demand should not be made realizable under the sale law instead of by the Certificate Procedure. This suggestion the Bengal Government subsequently withdrew, on the ground that it would be universally unacceptable to the zamindars. The Board were desired to further consult Commissioners and experienced Revenue Officers. I may mention that about this time the High Court's decision in the case of Lala Mobaruk Lal was much considered, and I may here state the main points of their decision, as it has been constantly referred to and as it is one object of the Bill to meet this decision, so as to give greater security to auction-purchasers. It was a case in which the Collector fixed a sale day which was not 30 clear days from the date of affixing the notification under section 6 of Act XI of 1859. A full Bench of the High Court held in January, 1885, that, notwithstanding the provisions of section 8 of Act VII (B.C.) of 1868 this error of procedure made the sale null and void. It would follow from this that, if the sale was not merely voidable, but void *ab initio*, the limitations of section 33 of Act XI of 1859 would not apply to it. It would not be necessary for the plaintiff to show that he had sustained substantial injury, or to have appealed to the Commissioner, or to bring his suit within the term of one year. This decision manifestly tends to make the title of auction-purchasers insecure, and also to involve Government in liability for costs in suits for the reversal of sales. The problem has been, how to meet these contingencies. I shall describe later how they have been met in the Bill. But I should mention here that since the Bill was drafted and submitted to the Government of India my attention has been drawn to an important decision of the

Privy Council, reported in the Law Reports of last February. In the case of Gobind Lal Roy *versus* Ramjanam Misser and others, which was heard in June and July last, the Privy Council ruled as follows:—'Their Lordships, having regard to the scheme of the Act and the express direction contained in section 33, are of opinion that in every case where a sale for arrears of revenue is impeached as being contrary to the provisions of Act XI of 1859, no grounds of objection are open to the plaintiff which have not been declared and specified in an appeal to the Commissioner.' They went on to say:—'In the opinion of their Lordships a sale is a sale made under the Act XI of 1859 within the meaning of that Act, when it is a sale for arrears of Government revenue, held by the Collector or other officer authorized to hold sales under the Act, although it may be contrary to the provisions of the Act either by reason of some irregularity in publishing or conducting the sale or in consequence of some express provision for exemption having been directly contravened.' It is evident from the further remarks of their Lordships that they had in view the security of the titles of auction-purchasers. This also has been the object of the Bill now in my hands. I am not prepared to say, without taking the best legal advice, how far this recent decision of the Privy Council provides for all that this Bill was framed to secure in this respect, how far the Bill needs modification, or should be allowed to stand as drafted. The point will require careful consideration. I will now return from my digression, which I thought it best to complete. The Board's report, framed after consulting Commissioners and others, was submitted to Government in February, 1889. They called attention to the unsatisfactory and confused state of the law, comprised as it is in several Acts, and they suggested the consolidation and codification of both the laws for the recovery of arrears of land revenue and public demands recoverable as such arrears. They thought it would be impossible to pass a merely consolidating Bill, and suggested an examination of the law by the light of the experience gained in 30 years. They withdrew, as I have said, the first two of the proposals which they had made in 1885. They adverted to the suggestion which had originated with the British Indian Association, that notices of arrears should be served on defaulting proprietors, and they proposed to allow any person interested in an estate, whether proprietor, mortgagee, judgment-creditor or tenure-holder, to register a name and address in the Collector's office on payment of a reasonable annual fee; the Collector then to be bound, on the occurrence of any default,

to send immediate notice of the same by registered letter to the registered address. It was to be understood, *firstly*, that the Collector would be responsible only for the despatch and not for the receipt of the notice, and, *secondly*, that the registration of a name and address would not involve any transfer of the liability to pay the revenue. They suggested that any person should be allowed the right to obtain exemption of an estate from sale on payment of the arrear with all Government demands and a penalty, provided that the payment must be made and the order for exemption passed at least seven clear days before the day of sale, and that the Collector should have no discretion to give an exemption or to waive the penalty. They thought that landed proprietors would welcome this scheme as a valuable concession, and that Collectors would be glad to be relieved of exercising their discretion. The Board were opposed to extending the provisions of the Sale Law, instead of the Certificate Procedure, to the recovery of cesses. They agreed to a proposal to extend section 49 of the Cess Act to excess payments of revenue by sharers. They agreed also, in consequence of Lala Mobaruk Lal's case, to amending the law so as to secure finality of sales; and they again proposed to make more clear section 29 of Act XI of 1859 regarding the delivery of possession. Almost simultaneously with this correspondence about the revision of the sale law, there was other correspondence between the Board and Government on the interpretation of section 19 of the Public Demands Recovery Act arising out of the case of Sadhusaran Singh *versus* Panchdeo Lal in the High Court, to which allusion will be made at greater length subsequently.

"I have so far briefly run over the correspondence which took place preparatory to the first definite proposal for legislation, submitted by the Bengal Government in September, 1889, to the Government of India. The letter of this Government mentioned that the expediency of undertaking fresh legislation with the object of tempering the alleged severity of the law in some respects and of remedying such defects as, for instance, the insecurity of under-tenures under the existing Acts, had been discussed in Bengal from time to time, but for various reasons action had been postponed. This Government suggested that the laws should be amended to meet the difficulties which had arisen from the cases of Sadhusaran Singh and Lala Mobaruk Lal. It was also proposed to extend the principle of registration to under-tenures (which is now only allowed to tenures of the first degree under section 38, as I have stated), and to allow the registration of all tenures and under-tenures at any

time on a reduced fee of Rs. 2 in each case, provided that the deeds constituting them have been duly registered in time. Sir Steuart Bayley's Government also proposed (*1*) to amend the working of section 29 of the Act so as to leave no doubt as to what is required of the Collector in giving possession of an estate after sale; (*2*) by registered letter to give notice of default to any person interested who had registered his name and address; (*3*) to allow payments of revenue subsequent to the fixed latest days of payment, but subject to a penalty; (*4*) to extend section 49 of the Cess Act [IX (B.C.) of 1880] to excess payments on account of land revenue; (*5*) to allow any one affected by a revenue sale to appeal against it—a right at present restricted to the defaulting proprietor; (*6*) to allow the rate of interest payable on the refund of purchase-money to be fixed at 12 per cent.

"Sir Steuart Bayley proposed to have two separate Acts, each complete in itself—one on the subject of the collection of land revenue and the other on that of the realization of other public demands recoverable as land revenue, and he placed Mr. J. Beames, C.S., on special duty for the purpose of preparing them. The Government of India approved of this and generally of the proposals of the Local Government, subject to further consideration. It is well known that Mr. Beames framed two Bills during the cold weather of 1889-90. They were laid before Government in May, 1890, accompanied in the one case by explanatory notes, and in the other by a Statement of Objects and Reasons. Under cover of a brief Resolution, dated the 17th June, 1890, they were published in the *Calcutta Gazette*, and the opinions of the leading Associations interested in land were invited. The Bills were also submitted to the Government of India, who asked for the opinions of the Hon'ble the Chief Justice and the Judges of the High Court. The Associations consulted expressed their opinions. The Board reported at full length on the Bills in February, 1891. In August of that year, the High Court furnished the Government of Bengal with a copy of the report of the Hon'ble Judges to the Government of India on the Bills. That report chiefly dealt with the Public Demands Recovery Act, to which I shall have occasion to refer hereafter. With regard to the Bill to amend the Revenue Sale Law, the Hon'ble Judges made certain proposals of so fundamental a character that it was necessary for Government to consult the Board again, and further to address the High Court. The upshot of this correspondence was, that Government accepted the High Court's proposals as

follows:—(*1*) that the system should cease whereby a purchaser runs the risk of two costly series of litigation—one before the Revenue authorities, the other in the Civil Courts; (*2*) that the Collector should be the final authority to decide conclusively upon the question of the arrears due; (*3*) that in cases of claims for arrears of land revenue, all recourse to the Civil Courts should be barred, *i.e.*, that it should not be open to the defaulter to appeal to the Civil Court or to contest the sale in the Civil Court either on the ground of non-indebtedness or on any other ground. This proposal (*3*) was made on the understanding (*a*) that a special system of notice should be enforced by which the defaulters should be assured of really receiving notice of the date of the intended sale of their property; (*b*) that, in lieu of the right of suit to contest such claims in the Civil Court, the Legislature should give a right of redemption after sale similar to that which is allowed by section 174 of the Tenancy Act in the case of a tenure or holding sold for arrears of rent.

"The Local Government did not accept in all its details the system suggested by the High Court for the service of notices; for instance, the suggestion that Civil Court peons should serve the notices instead of the revenue peons, and that it should be made by law the duty of the Police to co-operate with the serving peons; but the Lieutenant-Governor accepted the suggestions that the serving peons should be bound to obtain the countersignature of the panchayats and chaukidars, and that, where proprietors had registered their addresses, duplicate notices should be sent to them from the Collectorate by registered letter.

"On this it was determined, with the assent of the High Court, to cut out from Mr. Beames' Bill the part dealing with the powers of the Civil Courts, and to substitute a single section providing that no Civil Court shall entertain a suit to set aside a sale either on the plea of non-indebtedness, or of irregularity of procedure, or want of jurisdiction, or for any other cause.

"The Bill was then redrafted by Government after full consideration of all the reports received. It was submitted to the Government of India in May, 1893, and after some correspondence this Government has been permitted to proceed in this Council with the Bill to amend the Revenue Sale Law, which is in the hands of hon'ble members.

"Before proceeding to describe the principal changes which the Bill proposes to introduce into the existing law, I desire to pause here for a minute or two and offer some general observations. I have endeavoured to explain to the

Council how the project of legislation has grown up. The enquiries into the working of the sale law in Sir George Campbell's time came to nothing; Sir Richard Temple's idea of legislating was similarly infructuous for the time: it was not until the Board took up the subject with earnestness, while Mr. Reynolds was the Member in charge, that the proposed legislation began to assume definite shape between 1885 and 1889. The object of the contemplated legislation, as I have tried to show, is not only to put the law in a more convenient form by consolidation and re-arrangement, but also to introduce such substantive improvements as it seems possible to effect for the convenience of the different classes concerned without impairing the efficiency of the system. The view taken by the Board at one time was that the Revenue Sale Law, as embodied in Act XI of 1859, is a measure of extreme stringency, both as it bears upon proprietors of estates and as it affects the holders of subordinate tenures and interests. The alleged stringency upon the former class is that, if the arrear demand of revenue is not discharged in full before sunset on the latest day of payment, the Collector has an absolute right to sell the estate. The position of subordinate tenure-holders has been described as precarious, in that their titles are liable to be annulled by the default of the superior landlord. In the case of the former, the alleged severity of the law has been tempered by section 18, which permits a Collector to exempt a defaulting estate from sale at any time before the sale has actually commenced, and by Government orders issued from time to time enjoining leniency and moderation in the administration of the law. I am not prepared to admit that the law is unduly stringent: it is an obligation coming down from the Permanent Settlement, section 7 of Regulation I of 1793, that if the proprietor fails in the punctual discharge of the land revenue, the whole of his lands, or sufficient to make good the arrear, will positively and invariably be sold. This provision and penalty were thought just in 1793 when the revenue represented 90 per cent. of the rental. Without referring to Road Cess figures, it is notorious that the rental has increased considerably, while the revenue permanently assessed has remained stationary: at any rate, if the zamindars should be disposed to question this single provision of the Permanent Settlement, they would run the risk of having the whole arrangement re-opened.

"I have quoted a passage from the report of the British Indian Association of November, 1875, in which, while admitting that no radical change in the

law is required, and complaining of its extreme rigour, that influential body admitted its substantial advantages, as it had ensured the punctual payment of revenue and taught the zamindars habits of providence and regularity. The keynote, then, to the Bill which I hold in my hand is that, so long as the punctual payment of the revenue is secured, Government have no objection to making changes of procedure which will facilitate the retention of their estates by the proprietors, and will assist the subordinate tenure-holders to preserve their interests in the event of the parent estate being sold for arrears of revenue. But, in making concessions which will admit of defaulting proprietors saving their estates up to the day preceding the day of sale or redeeming them after sale, Government propose to place a limit to further concessions by withdrawing from the Collectors the discretionary power they have enjoyed under section 18 of Act XI of 1859. Perhaps I should not say that they have enjoyed the power in question, for it has laid them open to the rebukes and censures which have occasionally been administered: the variety in practice has at any rate caused an undesirable uncertainty which has been a cause of anxiety to proprietors and their agents. It is impossible for Government to allow concessions and further discretionary leniency as well. The security of the revenue is the first consideration, and it is, I might almost say, the only consideration in which Government is really concerned in this Bill. At the same time, I should point out that the measure in no way aims at any increase in the Government land revenue. If the zamindars pay their revenue punctually, the Bill will add nothing but possibly some comparatively unimportant stamp duties to the coffers of the State. It is brought forward necessarily as a Government measure, but it will be evident that the interest of Government in its passing is very small as compared with the interests of those classes whose rights of property will be benefited by it. If therefore any amendment is carried, which will have the effect in the remotest degree of endangering a rupee of the Government revenue, it will be my duty immediately to move that the progress of the Bill be suspended, and, as they say in Parliament, to move the Government to reconsider the situation. It would be very easy for Government to introduce a much smaller Bill, merely for the object of meeting the High Court's judgment in the case of Lala Mobarak Lal, by which it may be thought that the safety of the Government revenue was to some extent likely to be exposed to risk.

[*Mr. Buckland.*]

"I will now proceed to explain some of the most important of the changes introduced by the Bill into the existing law as contained in the Acts mentioned at the beginning of my remarks. They have been set out in order in the Statement of Objects and Reasons attached to the Bill. There can, I presume, be no objection to the re-arrangement of the law in a natural order, so as to correspond with the actual course of events in the history of an arrear of revenue from its inception to its ultimate consequences. I may also mention that some definitions have been added, some altered, and all arranged in alphabetical order.

"The most important paragraphs of the Statement of Objects and Reasons with which only I need trouble the Council are those numbered 10, 11, 17, 18, 19, 20, 21, 25, on each of which I will offer some explanations. These refer to the particular points for which legislation is considered, if I may not say absolutely necessary, yet advisable for the improvement of the law.

"In the first place, it is considered desirable to provide for the service of notices upon defaulters, so that their estates may not be sold without their knowledge. This will be effected by sections 10-12 of the Bill. It will be remembered that the zamindars in 1875 complained of want of notice of default before their estates were sold for default. Both Sir Richard Temple and Sir Steuart Bayley were willing that some notice should be given, and indeed section 6 of Act VII (B.C.) of 1868 empowers the Lieutenant-Governor to authorize the issue of such notices as he may please to defaulting proprietors, though no general use has been made of these provisions. The Bill does not propose that proprietors should receive notice of defaults, for it may rightly be assumed that when the revenue is settled in perpetuity, and even under a temporary settlement, every proprietor must know the amount due from him, the latest day of payment, and whether he has paid or not. But what is proposed is, that the defaulter should receive information not of his default, but of the date fixed for the sale, in order that he may attend the sale and secure that a fair price is bid for the property. Then, as notices to this effect are to be given, it is essential to secure their due service. It has, therefore, been provided in the Bill that when notifications of sale are issued, notices of the date of sale shall be served at the same time locally on the recorded proprietors, and shall specify the estate or share notified for sale and the date fixed for the sale. The chaukidar and a member of the chaukidari panchayat of the proprietor's village are to co-operate with he

serving officer and to certify to the service of the notice. It is intended also to instruct the police, not by law as the High Court proposed, but by executive orders to use their weight and authority to impress on the chaukidars and panchayats that it is their duty to assist the process peons in this way. One great difficulty has always been to ascertain the names and addresses of the proprietors of estates, and some improvement has been effected in this respect by the Land Registration Act, though many mutations still escape registration. In order that no available means may be neglected for ensuring the service of these notices, any person interested in an estate by whatever title is to be allowed to register his name and address with details in the Collectorate, and thereby to become entitled to receive another notice of the date of sale by registered letter. No sale is to be held void or voidable by non-receipt of the letter, if it be proved that it has been duly registered and posted. The High Court, as well as Government, attach great importance to the due service of these notices of dates of sale.

"The next important sections are 14 and 15 of the Bill, which are to take the place of section 18 of the main Act in force. Paragraph 11 of the Statement of Objects and Reasons is so full that I need add little to it. It runs thus:—

'By section 18 of Act XI of 1859, a Collector is authorised to use his discretion, at any time before the sale of an estate shall have commenced, to exempt such estate from sale, but the section contains no instructions for the guidance of Collectors in the exercise of their discretion. The orders of the Board and Government issued from time to time have inculcated leniency, but the discretion allowed has necessarily been exercised without uniformity; so that landed proprietors have been left in uncertainty and Collectors exposed to an embarrassing responsibility and the risk of errors and reprimands. It is considered desirable to leave no discretionary power to Collectors, and to fix exactly by law the rights of Government and of the proprietors who desire to save their estates from sale. It has accordingly been provided by sections 14 and 15 of the Bill that arrears are to be received by a Collector after the latest days of payment (fixed under section 6 of the Bill) up to the day preceding the day fixed for the sale, on payment by the defaulting recorded proprietor of all Government dues, interest on the arrear of revenue, and a penalty graduated according to the delay in payment (between the latest day of payment and the day before the sale day) up to one-fifth of the arrears, with certain provisos limiting the penalty in the cases of very large and very small estates. Their default will not, as at present, be liable to be followed invariably by the extreme measure of sale, but will involve in the first instance only some additional expense. In allowing the right of payment later than the fixed latest days of payment, it becomes necessary to charge interest on the arrear. This entails the repeal of the surviving section

of Act XII of 1841, which prohibited the demand of interest or penalty upon any arrear of land revenue. The Collector is to have no power to receive any payment on the sale day.'

"If these sections are approved by the Council, the payment of the land revenue will be thus provided for:—

(*1*) up to what is commonly called the kist day, *i.e.*, the latest day of payment, as a matter of right of the payer, without any penalty;

(*2*) up to sunset of the sixth day before the sale day, as a matter of right of the payer, on payment of a penalty of one-tenth of the arrear due;

(*3*) during the last five days before the sale day, as a matter of right of the payer on payment of one-fifth of the arrear due;

(*4*) on the sale day, no opportunity of any sort to be allowed to a defaulter to protect his estate from sale: the sale to be obligatory.

"In all cases the arrear and interest and all outstanding charges are to be paid: the proportionate penalty is to be modified in the case of large estates, and is never to be less than one rupee.

"It may be anticipated that these proposals will be much discussed. Considerable thought and care have been expended on making them substantial and reasonable. The zamindars, it may be expected, will be glad of the concession of opportunities of saving their estates after kist days, but will wish to do it on easier terms as to the penalty to be levied for the concession. I may say at once, in the most emphatic manner, that there is no desire to increase the land revenue by the levy of a penalty on late payments. The whole and sole object of the penalty is to enforce punctuality in the payment of the revenue. The Bill embodies all that the Government is prepared to concede: it may turn out that too much has been conceded. On the other hand, it has been objected that this concession allows a later day of payment than the fixed latest day of payment, which is absurd, as Euclid says. I do not agree in this criticism. It allows an opportunity of paying under a fixed penalty, which is a very different thing. It is essential to preserve the importance of the kist day, *i.e.*, the latest day of payment, and to allow no payment on the sale day on any terms. The confusion and inconvenience caused by the power that defaulters have of tendering arrears up to the very commencement of a sale are notorious, and it is very desirable that the sale proceedings should not be disturbed by the efforts and clamours of defaulters demanding permission to pay at the last moment.

[*Mr. Buckland.*]

"I have next to refer to sections 43 and 59 of the Bill which are meant to meet the difficulty caused by the High Court's ruling in the case of Lala Mobarak Lal. I have referred to this case already. It is obviously desirable that, when estates are brought to sale and sold, the proceedings should not be liable to be set aside unless for some serious defect. There is a section of the law, viz., section 8 of Act VII (B.C.) of 1868, which already provides that a purchaser's title is not to be impeached or affected by any omission, informality or irregularity as regards the serving or posting of any notice connected with the sale. But this case decided that, where sufficient legal notice of the sale had not been given, the sale was in consequence not a sale under Act XI at all, so that there was no power under that Act or its subsidiary Acts to prevent such a sale from being set aside. The object of legislating is to secure the titles or auction-purchasers which are rendered unsafe by such a decision. To do this, it is proposed to require the Collector or his Deputy, before a sale is held, to go through all the notifications and notices, see that they have all been duly issued, and record an attestation proceeding to that effect. It is intended that this attestation and the certificate of title shall together protect the sale from being upset on the grounds of any omission, informality or irregularity regarding the notices. I need only repeat here what I said a few minutes ago, that the effect of the recent Privy Council decision in the case of Gobind Lal Roy *versus* Ramjanam Misser and others will require careful consideration in connection with these provisions of the Bill. I have mentioned above the existing provisions regarding appeals against sales. They are not satisfactory because it is beyond the power of the Collector to review his own action if he wished to do so. An appeal against a sale must be made to the Commissioner at a distance, and the defaulting proprietor is the only person who can make it. There is no appeal from the Commissioner, and, if he does not choose to move the Board of Revenue to recommend the Local Government to annul a sale on the ground of hardship, no remedy is available. It is thought that the opportunities of appeal and remedy should be increased, but not to an unlimited extent. It is important at the same time that the Collector should be the final authority regarding the due service of all notices. Any person interested is to be allowed to appeal to the Collector to annul a sale on the ground of irregularity in any of the notices, if substantial injury has been caused thereby, and an appeal is to be allowed to the Commissioner against a Collector's refusal to annul a sale, but allowed on

the ground of substantial injury only. As now, no right of appeal is to be allowed beyond the Commissioner, but, whether the Commissioner sends up the case or not, any person interested is to be allowed to represent the case to the Board on the ground of hardship or injustice. The Local Government will no longer have anything to do with the matter; but, with two appeals available and the right of representation, there is no need to fear any miscarriage of justice.

"The Council may be aware that under section 174 of the Tenancy Act it is open to judgment-debtors in sales for arrears of rent to have the sale set aside by making certain deposits in Court. The High Court have proposed that, analogously, a right to redeem their estates after sale should be conferred on recorded proprietors, the right to be exercised within a given time by depositing certain amounts, and a penalty. Obviously, the penalty to be paid to entitle to redemption after sale must be higher than that required to entitle to exemption before sale. It is a moot point what effect this right of redemption will have on the price obtained for an estate at a revenue sale. On the one hand, it is alleged that the result will be to decrease the price, and that it may involve the redeeming proprietor in difficulties with the purchaser. As a general rule estates, it is believed, fetch a full price at revenue sales, because they are sold free of encumbrances for the most part, and an absolutely secure title is given. On the other hand, the High Court have expressed an opinion that this right of redemption would tend to secure prices at revenue sales corresponding more nearly than now with the value of the land sold: for, instead of having to face the possibility of costly and complicated litigation on the part of the person whose land is sold, the worst that a purchaser would have to fear would be the return of his purchase-money with interest, and the High Court anticipate that it would provide a remedy against the extreme hardship that occurs from time to time when properties, in consequence no doubt generally of the carelessness of the proprietors, are sold at revenue sales for a small fraction of their value, and the owners are brought to ruin. This extreme hardship it is thought desirable to obviate by this right of redemption. The zamindars will doubtless express their opinion in due course on this new proposal; but it is one on which the High Court lay great stress, as it is upon this right of redemption and upon the efficient service of notices that the High Court rely as conditions precedent for their proposal to which I must next allude, that the Civil Courts should be debarred from entertaining a suit to annul a sale for arrears of land

revenue. By section 33 of Act XI of 1859, the jurisdiction of the Civil Court in suits to annul sales is surrounded by certain limitations. But weighty objections have been taken to the Civil Court having any jurisdiction at all in such cases. The High Court point out that now a purchaser runs the risk of two costly series of litigation—one before the Revenue authorities and the other in the Civil Courts. The property sold is injuriously affected, as it is seldom that at a revenue sale the price fetched reaches the real value; and other evil effects, such as disastrous litigation, follow. In the opinion of the Hon'ble Judges this system ought not to continue, and they recommend that there be substituted for it a method of procedure analogous to that which they recommend for the recovery of other public demands. They consider that the Collector should be the general authority to decide conclusively, subject to the control of his official superiors, upon the question of the arrear due; and they would not permit a suit to be brought in a Civil Court to dispute or set aside a sale on any other grounds, such as those of jurisdiction or irregularity in the proceedings. But before barring all recourse to the Civil Courts they stipulate for two points as conditions precedent. These are a high standard of efficiency in the service of notices, and a right of redemption after sale. I have already dilated sufficiently on these points. The object of section 55 of the Bill is to provide in general terms for the High Court's suggestion, other sections being framed to carry it out in detail. It is obviously desirable if possible that the revenue work should be done by the Revenue officers, and that opportunities of litigation should not be unduly increased.

"Sections 57 and 58 of the Bill are of some importance and may be mentioned. Their object is not to add any new law, but to make clearer and to enforce the intention of the present law. Under section 28 of Act XI of 1859, the Collector is required to give a certificate to the purchaser at a sale. But in practice purchasers constantly neglect to take certificates for various reasons, because they do not want to get possession, or because the Collector notifies the transfer of the estate without waiting for the purchaser to take the certificate, or to avoid the stamp duty which is the same on a certificate as on a conveyance. The Bill provides for an application to be made for the certificate, and requires the payment of the stamp duty before a certificate is granted. Not till then is the Collector to notify the transfer of the estate or to give possession. Doubts have before now been expressed as to the proper method for a Collector to give posses-

sion, and it was at one time thought that he was required to do so by metes and bounds, that is, by indicating the actual boundaries of an estate and placing the purchaser in actual possession. It is provided in the Bill that the manner of delivery of possession is to be assimilated to that of the Civil Procedure Code for giving possession of immoveable property in execution of a decree. The procedure is explained at length in section 58.

"There is only one more matter of importance on which I need now touch. It has long been felt that the holders of interests in landed property, subordinate to the interest of the revenue-paying proprietor, were not sufficiently protected by the sale laws, which permitted the annulment of such interests or charges, defined in the Bill as encumbrances, by a purchase at sale for arrears of revenue. Before 1859 a system of double sales was in force, whereby an estate might be put up to sale in the first instance, subject to all encumbrances whenever necessary: in the event of such a sale not producing a sum sufficient to cover the arrear, it was not to be confirmed, but a second sale with power to annul encumbrances was to take place. As is well known, the matter was much discussed when Act XI of 1859 was passed. One of the objects of that Act, as stated in the preamble, was to protect certain registered under-tenures (as they were called) from loss, *i.e.*, annulment, by avoidance of the tenures through the sale of the superior estate for arrears, and a system of special and common registry was adopted in the Act for the purpose of protecting certain tenures and farms when the estate was sold for arrears. This system only applied to talukdari and other similar tenures holding direct from the proprietor: registration of old tenures was only allowed for a limited time, which was subsequently extended: now only newly created tenures can be registered. It is now thought that under-tenures of all descriptions are as much deserving of protection as those of the first degree. An objection has been taken to the extension of the principle of registration and protection of all tenures, and to the sale of a defaulting estate subject to such encumbrances, on the ground that the existence of such tenures diminishes the sale value of a defaulting zamindari. On the whole, however, it is thought equitable that tenure-holders should be capable of protecting themselves from the consequences of the *laches* of the proprietor, for which they are not responsible, and that it should not be open to the zamindars first to derive consideration from the creation of tenures and then to derive a second consideration from the same

land by allowing it to go to sale free from encumbrances. Actual instances of such malpractices are on record. The talukdars and tenure-holders have not availed themselves largely of the power of protecting themselves, and it remains to be seen whether the under-tenure-holders will do so more. My references to the correspondence of the last few years will have shown that the revival of the system of double sales which I have just mentioned was at one time contemplated by the Board, but was dropped as open to various objections, *inter alia* that it would be regarded by the zamindars as tending to a general reduction of the value of their property. If, then, on the one hand, estates are to be made over to purchasers free of all encumbrances of doubtful validity, and on the other hand, adequate protection is to be secured to *bonâ fide* tenants of all classes, so that their interests may not be jeopardized through no fault of their own, the only resource lies in an extension of the principle of registry. The provisions of the Act for the registration of talukdari tenures have therefore by the Bill been extended to tenures of all descriptions without limitation of time and on payment of a small fee: such tenures must either have been in existence for twelve years, or have been created by registered deeds. This change is not mentioned now for the first time. It was alluded to in the Government Resolution of 17th June, 1890, under cover of which Mr. Beames' Bills were published in the *Calcutta Gazette*.

"I have now glanced, perhaps too briefly, at the principal changes in the law for which it is thought desirable to legislate as distinct improvements, beneficial to one class or the other, to the zamindars in some points, to under-tenure-holders in other respects, and to Government only in the case of stamp duty. The subject is so technical that it has been difficult to be clear without prolixity. But ample time for studying it will be available before next cold weather, when it is intended to proceed with it actively, and I trust that on examination it will be found to have been framed with circumspection and with a reasonable regard for the interests of all concerned. The Bill will be published in the Gazette according to the Rules. The Select Committee will not be expected to deal with the Bill finally with a view to a Report at present. It is rather expected that they will examine the Bill carefully, and, as was done in the case of the Drainage Bill, will indicate specially the points on which the opinions of officials and Associations should be obtained. If the Select Committee should see fit to adopt such a course, the Bill, with the Statement of Objects and Reasons, and the Select Committee's letter would be circulated for the purpose of eliciting the

opinions of all persons interested in the subject. I will only repeat that there is no intention whatever of unduly expediting legislation in connection with so important a measure. I have now, Sir, to move that the Bill to amend the Revenue Sale Law be referred to a Select Committee of this Council."

The Hon'ble MAULVI SERAJUL ISLAM KHAN BAHADUR said:—"With your Honour's permission, I beg to offer a few observations with reference to the general provisions of the Bill before the Council. It would appear that the present measure is in some respects an improvement on the previous Acts regarding revenue sales, the right, for instance, which is given to the defaulter by the present Bill to redeem on payment of revenue within a certain time and to pay arrears of revenue after the latest date of payment and the facilities which are further given to mortgagees and others, who are interested in a zamindari to register their names and to receive notices of sale and so on. No doubt these are improvements for which the public ought to be thankful to the hon'ble member in charge of the Bill. But, at the same time, there are some provisions which seem to me open to objection. The Bill proposes to take away a right which the public have hitherto enjoyed. I mean the right to have the question of the validity or invalidity of a sale tried by a Civil Court. That is a right which I submit is valued by the people and ought not to be taken away after a series of years. The reason given in the Statement of Objects and Reasons for taking away this right appears to me, I say so with great respect, not sufficient to justify a departure from the established law of the country, and that reason is this, that according to the opinion of the High Court suitors ought not to have recourse to two tribunals—the Revenue Court and the Civil Court. The object no doubt is a very generous one, namely, to save the public from the costs of litigation. In that I quite agree. But the remedy which is proposed is, I am afraid, one which will not meet with the approbation of the public. The remedy ought not to be by taking away the right of the people to have recourse to the Civil Courts to have their rights tried, but it is a very simple one, namely, to repeal section 33 of Act XI of 1859. It is that section which, I submit with great respect, has created all the mischief. It compels suitors to go first to the Commissioner of the Division by way of appeal, and then to go to the Civil Court by way of a regular suit to have the sale set aside. So suitors are obliged under that section to resort first to the Revenue authorities. If the object of the Bill is to do away with this double set of tribunals, I submit the simple remedy is by repealing

section 33 of the present Act. As I said before, I quite agree with the general object with which this section has been framed. It is not my desire that there should be a loophole in the Bill to encourage litigation, but I would urge the Council to take into their serious consideration that some provision should be made in the Bill to protect the rights of the people, and for that this Bill, I submit, does not make sufficient provision.

"The only safeguard I find is, the attestation of the Collector to the service of notice by a peon. That attestation will go to show that a notice was issued, but it is not a sufficient safeguard to protect the rights of the people. The right of applying to the Collector and of appealing to the Commissioner is given by the Bill, and the only question is, whether the public would have the question of right tried in a summary way by the Revenue authorities or by regular suit in a Civil Court. As far as I am aware, I think the public would prefer to have this question tried by the Civil Courts, and that being so, I do not think it necessary to deprive the people of a right which they have hitherto enjoyed. The hon'ble member in charge of the Bill has said that the Government has no interest in the matter. No doubt that is so, but the policy of the sale law is to protect the Government revenue, and the law was founded on the assumption that after the Permanent Settlement some zamindars by improvident gifts of taluks and other sub-tenures endangered the security of the revenue. That was considered a breach of the conditions on which the Permanent Settlement was created; and it was in order to meet such a state of things that the sale law was first enacted. I do not propose to discuss the question whether the reasons which induced the Legislature at that time to frame the Sale Law exist now or not, but I submit that the Government has ample security for their revenue in the estates themselves. There is an efficient machinery in the hands of the Government to enforce that security against defaulters. That being the state of the law, as the interests at stake are very large, and as valuable properties are sometimes sold through the oversight of some ministerial officers, I ask whether it would be right or expedient to deprive the people of a right to a regular suit? I submit this for the consideration of the hon'ble member in charge of the Bill.

"There is an omission in the Bill to which I wish to draw attention, namely that there is no distinction made between illegality and irregularity in sales. No doubt there are irregularities or technical defects which may be covered by

the certificate given to the auction-purchaser. Section 59 of the Bill provides that such certificate and attestation by the Collector should be conclusive evidence in favour of the purchaser. The mere granting of a certificate and attestation by the Collector will be conclusive evidence and serve to cure every defect. If it be a technical defect or a slight clerical error, it may be so, but the Bill does not provide for an important defect in the procedure, where, for instance, there was no actual service of notice at all. That is not a mere ordinary irregularity, but an illegality which goes to the root of the jurisdiction. Section 49 provides that the Collector shall satisfy himself that all the notices required previous to the sale have been duly served, and his attestation will be conclusive to cure all sorts of defects whatever. I humbly submit that this Bill does not provide sufficient safeguards to protect the rights of the people."

The Hon'ble Sir Charles Paul said:—"I feel called upon to say a very few words upon the subject of this Bill, although I have not studied it sufficiently to be able to pronounce a positive opinion. I wish to point out for the consideration of the Select Committee that any attempt to deprive the High Court of its jurisdiction will be useless, because this Council has no power to interfere with the jurisdiction of the High Court. I have also to observe that in former days when land was not so valuable as it is now, it was sometimes necessary to resort to personal eviction for the purpose of recovering the deficiency after the sale of land. Now, fortunately, circumstances have so changed that there is no necessity for imprisoning a zamindar for the recovery of any deficiency in the sale proceeds.

"It is not the zamindar now to whom the Government looks for its revenue, but to the land itself. It is the land which is charged with the payment of revenue. It is the duty of everybody connected with the land—the zamindar, the mortgagor, the putnidar, &c., to take care that the revenue is paid; and therefore if the provisions of Act XI of 1859 are not sufficient to allow all persons interested to pay in the Government revenue, I shal be very glad to see the law amended, so that any person interested in the smallest degree in the land should be entitled to pay the arrears of revenue in order to save the estate from sale. Further, I am averse to requiring a notice of arrear to be sent by the Government to any human being. I should like to see a different procedure altogether adopted. I would proceed on the principle that the land is responsible for the revenue, and that any person interested be

permitted to save the estate from sale by paying the arrears of revenue. And that being so, instead of embarking on a sea of confusion by requiring the service of a number of notices by registered post or otherwise, I think the special procedure ought to be something like this. A default in the payment of revenue takes place; it should be advertised and notified in all public places, and stated distinctly that two or three months (as may be determined upon from that date the sale will take place. That being done, there should be some provisions such as those contained in this Bill that the arrears may be paid within that time with 5 per cent. interest. After the sale takes place, no opportunity should be allowed to attack that sale through the Revenue Courts. The only attack which should be permitted should be on the ground that no arrear of revenue was due.

"By a procedure such as this, all the trouble as to the service of notices and proof of service would be avoided, and no injustice would be done from my point of view. I do not think the lines on which the Bill has been drawn disclose improvements. They appear to me to indicate a retrograde movement."

The Hon'ble MR. BUCKLAND in reply said:—"The remarks which were addressed to the Council by one of the gentlemen who has spoken will be dealt with by the Select Committee, and I accept them as valuable contributions from a gentleman who is interested in the subject of this Bill. I cannot say that I share at all in the fears expressed by the learned Advocate-General that any estate is likely to be sold for arrears of revenue when no arrears are really due. I think the Collector of the district and other officers entrusted with the revenue administration of the district are fully capable of ensuring that no estate will ever be brought to sale unless there are arrears of revenue due from the estate. It seems to me that my hon'ble and learned friend has raked up an imaginary grievance on this point. With regard to the question of staying the jurisdiction of the Civil Court, it has been very fully dealt with in the correspondence, and the proposal which now finds shape in the Bill has been adopted on the recommendation of the High Court itself. I think the Bill might very well go to the Select Committee, where the observations which have now been made will be thoroughly considered."

The Hon'ble THE PRESIDENT said:—"The question before the Council is one of such technicality that it would be undesirable to attempt to answer here on the

[*The President; Mr. Buckland.*]

spur of the moment the observations which have fallen from my hon'ble friend the Advocate-General; but, as far as I understand him, I venture to think that whatever disagreement there may be in matters of detail between the procedure enunciated in the Bill and the procedure recommended by him, at any rate our aim is the same It seems to me that he desires, like the Government, that the advertisement of sale should be a complete notice to a defaulter to pay up the arrear if he is able to pay it, and thus save his estate from sale, but that if he does not pay, the sale should be so absolute that there should be no means of upsetting it. The land is undoubtedly liable for the payment of revenue, not the person, but it should not be possible that a man's property should be sold without his being aware of it. All that I wish to say at the present stage is, that the object of the learned Advocate-General and of the framers of the Bill seems to me to be the same, and I trust it will be quite possible for the Select Committee to make such alterations in the Bill as may meet his views. Our intention is that the subject should be considered as fully as possible, that the Bill should be circulated and opinions should be called for, and that the remodelling or alteration of the Bill to such an extent as may seem necessary should be placed in the hands of the Select Committee."

The Motion was put and agreed to.

PUBLIC DEMANDS RECOVERY ACT, 1880, AMENDMENT BILL.

The Hon'ble MR. BUCKLAND also moved for leave to introduce a Bill to amend the Public Demands Recovery Act, 1880. He said:—

"As in the last case, it is my intention to ask you, Sir, to be good enough to suspend the Rules of Business to enable me to introduce this Bill at the present meeting of the Council. I shall therefore offer no observations at this stage."

The Motion was put and agreed to.

The Hon'ble MR. BUCKLAND said:—"I now also apply for the suspension of the Rules with a view to the Bill being read in Council and referred to a Select Committee. As I said when dealing with the Bill for the amendment of the Revenue Sale Law, it has been thought desirable to obtain all possible opinions

before the Bill is actively proceeded with next cold weather. The object of referring the Bill to a Select Committee is, that they should examine it in connection with those opinions when they are received."

The Hon'ble THE PRESIDENT having declared the Rules suspended—

The Hon'ble Mr. BUCKLAND introduced the Bill and moved that it be read in Council.

The Motion was put and agreed to.

The Bill was read accordingly.

The Hon'ble Mr. BUCKLAND also moved that the Bill be referred to a Select Committee consisting of the Hon'ble MESSRS. ALLEN and LYALL, the Hon'ble MAHARAJA RAVANESHWAR PROSAD SINGH BAHADUR OF GIDHOUR, the Hon'ble MAHARAJA SIR LUCHMESSUR SINGH BAHADUR OF DARBHANGA, the Hon'ble MAHARAJA JAGADINDRA NATH ROY OF NATOR, the Hon'ble MR. GHOSE and the MOVER He said:—

"The second Bill which I have the honour of laying before the Council today is a measure to amend and consolidate the Public Demands Recovery Act. In the explanation which I have to offer, I shall not occupy the time of hon'ble members to such length as I was constrained to do just now: the Bill itself does not contain so many important changes, and it has not been the subject of so much correspondence as the Revenue Sale Bill. The whole system of the Recovery of Public Demands is an offshoot of the system of the realization of the land revenue, and the present Bill has sprung from the correspondence connected with the amendment of the Revenue Sale Law. It is now intended to divide the offshoot from the main stock, and to give it a separate existence.

"I propose to divide my remarks into several portions. I will first make some reference to the history of the system of the recovery of public demands; secondly, I will give an outline of the existing law; in the next place I will trace the correspondence which led up to the proposal for legislation, and in the last place I will explain the important points in which it is intended to amend the law now in force.

[*Mr. Buckland.*]

"The main Acts on this subject have been only two, viz., Act VII (B.C.) of 1868 and Act VII (B.C.) of 1880. Two brief subsidiary Acts, I (B.C.) of 1875 and I (B.C.) of 1891, have been required; the former of these merged in the Act of 1880, and the latter was requisite to correct an oversight. The principles of the system are briefly, that Government is thereby allowed to recover certain demands due to the State by a special Certificate Procedure, without resorting to a Civil Court: and that execution of the certificate is to be effected by the Revenue authorities. The history of the system and its principles were clearly stated by Mr. Field when he introduced into this Council, on the 13th March, 1880, the Bill which afterwards became Act VII (B.C.) of that year. He referred thus to the first of these Acts, VII (B.C.) of 1868. The object of the Act was twofold. It first amended the Revenue Sale Law—Act XI of 1859; that is, the law for the recovery of arrears of land revenue by the sale of the estate upon which those arrears had accrued. In the second place, it provided a procedure for the recovery of certain demands due to the State. The nature of that procedure was this: A public officer of Government was empowered to certify that a certain sum of money was due, and to this certificate was given the force of a decree. This decree is executed as the decree of a civil court, but, with this difference, that the machinery employed in executing it consists of the Collector and his subordinate officers, instead of the ordinary machinery of the civil courts. In all countries the State—the Exchequer—has reserved to itself a special and peculiar procedure for the recovery of certain dues and debts owing to itself. Between private individuals the ordinary practice is, that a person to whom a debt is due resorts to the civil court, and after an adjudication upon the rights of the parties, the court embodies this adjudication in a decree, the execution of which enables one person, the plaintiff, to compel another person, the defendant, to pay the debt justly demandable from him. In the case of the State, in most countries the Government has declined to resort to the ordinary tribunals, and it has reserved to itself a special procedure to enforce its own demands. In this country, from the earliest period, there has been a difference. In all cases of disputed right the Government has submitted itself to the jurisdiction of civil courts. In this principle, as a principle, no change was made in 1868, and it is not proposed to make any change now. But there are certain demands in the nature of taxes, fines and other dues, in respect of which the only real question is, whether they have been paid or not, and as to the right of recovering which no question arises. It is in respect of this class

of claims, then, that the Act of 1868 provided a special procedure, and that procedure it is on the present occasion proposed to maintain and improve. In 1868, it was attempted to enumerate and classify the particular demands to which this procedure should be made applicable. The Statute-book was, however, then in an uncertain and confused state, and it was extremely difficult to know what portions of the old Bengal Regulations were in force, and what portions had been repealed or modified. As a natural consequence, the classification attempted in 1868 was, in the course of a few years, found to be incomplete, and in 1875 a short amending Bill was brought into this Council and passed. In the course of the few years that have since elapsed, the working of the Act of 1868, and the experience derived from its working, have brought to light further omissions; and now (I am still quoting from Mr. Field's speech of March, 1880,) that the Statute-book has been brought into a state of order, and it is known exactly what old Regulations are in force and what have been repealed, it is possible to attempt a complete enumeration and classification of those items of Public Demands created by existing Statutes which it is desirable to bring under this special procedure. What then the Bill proposed to do is this: it would repeal so much of the Act of 1868 as was connected with the second object already stated, viz., the recovery of public demands. That portion of the Act which was connected with the realization of land revenue by the sale of estates, and which was an amendment of Act XI of 1859, it was not intended to touch. The second portion it was proposed to repeal, and to enact in an amended and more complete form. It has been attempted to give a complete enumeration of all those public demands created by the existing law which it has been thought desirable to recover by this special procedure, and a clause has been added enabling future Acts by a few words to refer to this special procedure, so that in the case of any new demand or tax, or fine, or due, a few words introduced into any future Act will make it recoverable under this procedure.

"The object of the present Bill is not to make any change in the main principles of the previous legislation, but rather to carry them out more completely.

"I will now give an outline of the present law and its working under the rules. When certain arrears of land revenue accrue, the Collector files certificates of his own motion; in the more numerous cases of public demands enumerated

in the Act, when they remain unpaid, the officer or manager responsible for realising them, called under the rules the Requiring Officer, makes requisitions on the Collector with statements of the debts; and the Collector or his Deputy, called the Certificate Officer, files certificates in his office.

"The certificates at once have the force and effect of Civil Court decrees so far as regards the remedies for enforcing them. Thereupon the Collector issues a notice to the debtor to show cause within 30 days why such certificate should not be enforced. The debtor may then either file a petition of objection before the Collector denying his liability, or he may within a year of the notice bring a civil suit to contest his liability. In the case of demands for certain arrears of land revenue, the debtor can only sue in the Civil Court on the ground of non-indebtedness, and he must have paid the arrears before such suit may be entertained. In the case of other public demands, he must have petitioned the Collector before he can bring a Civil Suit and a Civil Court can cancel a certificate only on certain specified grounds. The petitions of objection are ordinarily referred by the Collector, *i.e.*, his Deputy, the Certificate Officer, for hearing and determination to the Requiring Officer, who has the best knowledge of the case. The law provides for appeals and power of revision. A certificate may be enforced and executed when a month has elapsed from the service of the notice, or the petition of objection against it has been heard and determined. The execution and enforcement are to be according to the Code of Civil Procedure as of decrees for money, but it is the Collector who is to enforce the certificate, not the Civil Court. I should mention that on the issue of the notice to the debtor all his immoveable property is bound as if attached under the Code of Civil Procedure, and under certain circumstances his moveable property may be attached.

"I will now refer to the correspondence which has led up to the present proposal for legislation. It was in November, 1887, when the Government were asking for the opinion of the Board and Revenue officers on certain definite proposals for legislation regarding the Sale Law, that they enquired also whether some modified form of the Sale Law should not be applied to the recovery of such demands as cesses now realized under the Certificate Procedure. The Board thought there would be much to recommend the change on grounds both of convenience and economy, as the system of recovering cesses by the Certificate Procedure was dilatory and expensive. But they did not think the

Sale Law should be made applicable to such demands unless it was shown that the landholders generally favoured the proposal. They recommended that a fuller expression of the zamindars' views should be invited on the suggestion that, when the payment of the land revenue of an estate can be enforced under the Sale Law, the payment of cesses due from it should be enforced by the same procedure. Nothing came of this suggestion. Meanwhile the case of Sadhusaran Singh *versus* Panchdeo Lal had occurred, and as I shall have to explain somewhere its bearing upon the case for legislation, I may as well deal with it here in its chronological order. Section 19 of Act VII (B.C.) of 1880 declares that all the practice and procedure provided by the Code of Civil Procedure in respect of sales in execution of decrees shall apply to every execution issued to enforce a certificate. In cases which came before the Board, they held that section 311 *et seq.* of the Civil Procedure Code (concerning applications to set aside sales) came strictly within the terms practice and procedure as above employed, and that therefore those sections were applicable to sales under the Public Demands Recovery Act; that Act VII (B.C.) of 1868 was not applicable to certificate sales; that a sale under a certificate was not a sale under Act VII (B.C.) of 1868 or XI of 1859, but a sale under the Code of Civil Procedure; that, if immoveable property was sold under a certificate, the sale was not a sale of an estate or share, but a sale of the rights and interests of the judgment debtor. But in Sadhusaran Singh's case the High Court decided in April, 1886, that only the provisions of the Code of Civil Procedure up to the stage at which the auction sale is held apply to an execution issued to enforce a certificate, so that sections 311 and 312 are not applicable. They thought that the remedy of a judgment debtor, whose property has been wrongfully sold, is not under sections 311 and 312 of the Code, but by appeal to the Commissioner under the Revenue Sale Law.

"The Board pointed out to Revenue officers that by this ruling all the provisions of Act XI of 1859 with regard to appeals against sales of estates became applicable. A Commissioner brought to notice the inconvenience caused by this ruling, which necessitated all appeals being made to the district Commissioner, whereas previously section 311 of the Civil Procedure Code was considered applicable to such sales, so that any person aggrieved by a sale would apply for relief to the Certificate Deputy Collector, and an appeal lay to the Collector under section 588 of the Code. The Board at once suggested

legislation to amend the Public Demands Recovery Act and provide for a simple procedure to afford a remedy on the spot, and to prevent the possibility of sales of moveable property being regulated by Acts which applied to sales of immoveable property. The Board also pointed out that what passes by a sale under Act VII (B.C.) of 1880 is the right, title and interest of a judgment-debtor, so that it is inappropriate to give possession of an estate or share under section 28 of Act XI of 1859.

"This was the correspondence before Government when Sir Steuart Bayley in September, 1889, proposed to put Mr. John Beames, C.S., on special duty to prepare two separate Bills—one to amend the Revenue Sale Law, the other to amend the Public Demands Recovery Act. I have already explained how Mr. Beames prepared two Bills, how they were published and opinions asked and received. I then mentioned that the report of Hon'ble Judges of the High Court chiefly dealt with the Public Demands Recovery Act, and that it led to further correspondence with the High Court and the Board. It would be tedious to go into too much detail, but I must mention the main points of the discussion. The High Court stated their views that the Certificate Procedure should be limited to public demands in the strict sense of the term, and to demands which can be ascertained simply by an examination of the public records under the control of the Collector; that Revenue authorities should not be vested with incidental powers such as those relating to insolvency; that the procedure for questioning the validity or correctness of a certificate is defective as it involves two series of litigation—one before the Revenue authorities, the other before the Civil Courts. They proposed to leave the present procedure up to the service of the certificate untouched; but its execution they would leave to the Civil Court, allowing the judgment-debtor the choice of paying the amount or depositing the amount of the claim in Court so as to gain the right to resist execution on the ground that the sum claimed is not due. They wrote:—'If the intervention of the Civil Court be thus made before, and not after, the certificate is enforced, there would seem to the Judges to be no reason for setting aside the certificate on the ground of any irregularity; for, if any irregularity has occurred of such a kind as to place the judgment-debtor at a disadvantage, the remedy would naturally be to delay the execution for a reasonable time. Nor would the Judges allow any objection to be taken on the ground of jurisdiction. They do not see why a debtor to the Government should be

permitted to raise questions, often very difficult to solve, as to the boundaries between administrative districts, and they would therefore limit his right strictly to disputing his indebtedness. If this system were adopted, no subsequent suit should be allowed to lie for the purpose of questioning the certificate or invalidating the sale thereunder by reason of one or the other not being warranted by the Act.' And in the last place, the High Court proposed that a debtor whose property has been sold should always be given the right of redemption, that is be at liberty to come before the Court and pay the amount of the demand with a penalty and interest on the purchase-money and thereupon have the sale set aside. The Board contested these views in several respects. The conclusions arrived at by the Local Government on the several points above mentioned were as follows: that there was no reason why any change should be made in the law which for years had admitted of rents in Courts of Wards' estates being included in the list of public demands recoverable under the Act, but that it should be provided that no certificate should issue in any case where a question of right or title is involved. The result will be to limit the action of the law to demands which are certain or easily ascertainable from the records. As to the exercise of powers in cases of insolvency, it has been shown that the matter is of no great practical importance as there have been only 47 such cases in three years. It has been admitted that Deputy Collectors should not have such powers, and it has been provided that the Collector of the district is not to delegate his powers in respect of insolvent debtors.

"With regard to the change of procedure proposed by the High Court, it has been thought advisable to retain the execution of certificates in the hands of the Revenue authorities on the grounds that the execution work of the Civil Courts is not better done than that of the Revenue authorities, and that the Revenue authorities would do better the work in which they are concerned than the Civil Courts who are not interested in the revenue would do it. But the Government fully accepted the High Court's objection to the double series of litigation which is now open to parties—one before the Revenue authorities, the other before the Civil Courts, and adopted the view that there should be no setting aside of a certificate after it has been carried into effect on the ground of irregularity; that no objection should be taken on the ground of jurisdiction, and that no suit should be allowed to lie for the purpose of questioning the certificate or invalidating the sale thereunder.

[*Mr. Buckland.*]

Government are desirous that the procedure in the Revenue Courts, which will by the law be conducted under the Civil Procedure Code, should be as careful and accurate as that of any Civil Court and follow the same procedure. The High Court's proposal to grant a right of redemption after sale has been agreed to. This recommendation has been supported by the Board though with some misgivings; it is opposed by some officers of considerable weight, while it is approved of by the majority of the experienced officials who have been consulted. It is probably correct to anticipate that the result of making all sales liable to be set aside will be to reduce the auction price, but it is thought that this risk should perhaps be run rather than inflict on the debtor what the Judges call the frightful penalty of having an estate sold for a fraction of its value and himself reduced to ruin through his neglect to pay what may be only a trifling sum. At the same time safeguards seem to be necessary. The time allowed for redemption of purchase should be short, and the debtor should be required to pay a heavy penalty and a high rate of interest on the purchase-money. The principle of allowing a right of redemption after sale has recently, as the Council may be aware, received further sanction from the Legislature in another place.

"I will now proceed to refer to the principal changes which it is proposed to effect by the Bill. As will have appeared from my previous observations, the general object is to separate the two systems (*1*) of realization of the land revenue, (*2*) of recovery of other public demands. In the first case, the land is theoretically responsible. The remedy should, it is thought, be speedy by the sale of the land. But, in the case of the other demands, the land is not liable in the first instance, and there is no necessity for providing the speedy remedy of land sales. At the same time it has been thought right, according to universal practice, that Government should have a special and more summary procedure allowed it for the collection of public demands than is permitted to the private creditor, and that for this purpose the Civil Code procedure should be carried out by the Revenue authorities. The main lines of the procedure previously in force have been retained, but the words in the Act of 1880, which directed that it should be construed as one with the Revenue Sale Law, have purposely been omitted. The Statement of Objects and Reasons shows all the changes beyond mere words introduced into the Bill. I will now only advert to paragraphs 4, 5, 8, 9, 10, 11, 12, 14, 15, 16 of the Statement.

[*Mr. Buckland.*]

"In section 4 of the Bill a new definition has been inserted to distinguish the Collector of the district from the officers who are specially appointed to exercise the functions of a Collector under the Act. It has always been the intention of the law that the general direction, control and supervision of the Certificate Department should remain in the hands of the Collector of the district, while the ordinary routine business of applying for certificates and of hearing and determining petitions of objection should be entrusted to the staff of Assistant and Deputy Collectors. It would be impossible for the Collector himself to do all the work; the certificates issued are too numerous, and he has many more important duties. I may mention that in 1892-93, 146,572 certificates were filed, 83,283 were pending, and 159, 522 were disposed of. Act I (B.C.) of 1891 was passed for the purpose of making it clear that it was not necessary for the Collector of the district himself to make all the certificates under section 7 of the Act, and that a specially appointed Collector might do it. By use of this new definition, and by making such changes as it entails throughout the Act, it is now possible to see at a glance what powers are to be exercised by the District Officer only and what he may exercise concurrently with the specially appointed Collectors. It has long been a rule under the law, and it is now included in section 31 of the Bill, that specially appointed Collectors are not to exercise appellate powers unless expressly authorised to do so by Government, and that they are still to be subject in the exercise of their functions to the general control of the District Officer.

"The changes proposed in section 7 of the Act generally speak for themselves. The list of demands recoverable under the Certificate Procedure has been brought up to date. Interest is to be allowed, as in the Sale law, on arrears of revenue or rent due to Government. A proviso to sub-section 7 of section 7 protects arrears of rent in managed estates from being levied at enhanced rates except by agreement or orders of Court. This sub-section has been remodelled to adapt it to the Tenancy Act. Provision has been made to carry out the decision that no certificate is to be made in case of any demand involving a question of right or title. Certificates filed while an estate was under the Court of Wards are not to lapse on account of the release of the estate.

"By the proviso to section 12 of the Bill the Collector is to be empowered to order that no petition of objection to a certificate shall be entertained unless

at the same time the judgment-debtor deposits the full amount entered in the certificate. It will be remembered that, with regard to cases in the Civil Court to contest liability, the High Court proposed that the amount claimed should be deposited in Court to give the right to resist execution on the ground that the sum claimed is not due. This proviso is somewhat analogous, but it makes the deposit demandable—not obligatory.

"In the proviso to section 13 it is proposed to give the Collector power to refer a petitioner to the Civil Court if the petition of objection discloses a case which could, in his opinion, be more suitably tried by such Court. This is a suggestion from the Board of Revenue, and is taken from a section of the Land Registration Act.

"Section 16 contains the grounds on which a certificate may be cancelled by a Civil Court. It will effect considerable changes in the existing law by eliminating the grounds of error, defect or irregularity in the proceedings and want of jurisdiction on which a certificate may now be cancelled by a Civil Court. The grounds for cancelment will now be only two, viz., that the amount had been paid before the certificate was made, and that no part of the amount stated in the certificate was due. The section as drafted will maintain the right of objecting in the Revenue Court on technical grounds of irregularity, non-service of process, and on the substantial ground of non-indebtedness, the reference to the Civil Court being only admissible on the ground of non-indebtedness. In referring to the correspondence with the High Court, I have sufficiently stated how this result has been arrived at. By section 18 of the Bill, the present system of appeals—first to Collector and then to a Commissioner—is generally maintained. But some small changes have been introduced. The appeals from his subordinates will lie to the District Collector, who may, with the permission of Government, transfer the hearing of them to any specially appointed Collector subordinate to him; also, with the permission of Government, appeals from a specially appointed Collector may be made to a District Collector instead of to the distant Commissioner. By section 20 of the Bill, a judgment-debtor whose property has been sold under the Certificate Procedure will have a right of redemption on payment of the demand with penalty and interest analogous to that which is given to judgment-debtors under section 174 of the Tenancy Act. This section corresponds with a section of the Revenue Sale Bill. The

High Court think this right should be given without any enquiry into the circumstances. Extremely bad cases have occurred in which properties have been sold very much under their real value, and although the judgment-debtor may himself be to blame for his negligence, the High Court consider it, as I have said, too severe a penalty to impose upon a man for his neglect to pay a trifling sum that his estate should be sold for a fraction of its value and the debtor be reduced to ruin. To recover his estate the judgment-debtor will be required to pay the heavy penalty (a portion of which should be paid to the purchaser as compensation) and a high rate of interest on the purchase-money. It is argued that by such a plan Government cannot possibly be a loser, a purchaser can sustain no serious injury, and extreme hardship will be avoided in individual cases.

"A change has been made in section 22 of the Bill, which replaces section 19 of the Act of 1880, by setting out distinctly the numbers and description of the sections of the Code of Civil Procedure which will be applicable to the enforcement of certificates. This change had its origin in the case of Sadhusaran Singh, on which I have dwelt so fully that I need not revert to it here. The effect of the changes will be that appeals against certificate sales will not be to a Commissioner under the Revenue Sale Law, but under the Civil Procedure Code they will be to the Court which held the sale; and possession will be given under that Code of the right, title and interest of the debtor instead of being supposed to be given of an estate which was not really being sold.

"Under section 23, the Board of Revenue will be given the power now vested in the High Court of making rules under the Code of Civil Procedure regarding sales of immoveable property, so that the Board may frame such rules as may be suitable to the circumstances of certificate sales. The High Court's orders have been found unsuitable for certificate sales, as they entail expense and add to the length of the procedure. They were framed for a state of things differing very considerably from that prevailing in certificate matters. The remedy adopted has been to direct Collectors to follow certain portions of the High Court rules and to disregard the rest as inapplicable, but the correctness of this course is open to question: the rules should apply in their entirety or not at all. It is considered best to allow the Board of Revenue to make suitable rules. This continues the principle of allowing the Revenue authorities to carry out Civil Procedure, just as the execution of certificates is made over by the Act to Revenue Officers not to Civil Courts. By section 32, provision is made for the service of notices under

[*Mr. Buckland; Mr. Bourdillon.*]

the Code of Civil Procedure. It was wrongly considered at one time that Act VII (B.C.) of 1880 provided no system for serving notices, but it was overlooked that that Act was to be read with Act VII (B.C.) of 1868, which did prescribe rules for serving notices. Now that the Revenue Sale laws and the recovery of public demands are to be kept distinct, it becomes necessary to avoid misleading and confusing references from one Act to another. This section has therefore been introduced prescribing the method of serving notices under the Bill. In accordance with the system followed in other parts of the Bill, the course has been adopted of declaring certain sections of the Code of Civil Procedure applicable to notices issued under this Bill, which is thus provided with a procedure entirely independent of any enactment relating to sales for arrears of land revenue.

"As I indicated just now in the case of the Revenue Sale Bill, so also in this case there is no intention whatever of hurrying it through the Council. The object has been to launch both the Bills together, with such explanation as I have been able to offer, and by doing so now, nearly at the end of a Session, and referring them to a Select Committee, to afford several months for their circulation and for their consideration by public bodies and by Government officers before the Council meets next cold weather. It is expected that the Select Committee will be willing to examine the Bill and to indicate the points on which opinions will be specially valuable. I beg, Sir, to move that the Bill to amend the Public Demands Recovery Act, 1880, be referred to a Select Committee."

The Motion was put and agreed to.

BENGAL MUNICIPAL ACT, 1884, AMENDMENT BILL.

The Hon'ble MR. BOURDILLON moved that the clauses of the Bill to amend Bengal Act III of 1884, as amended by the enlarged Select Committee, be further considered for settlement in the form recommended by the Select Committee.

The Motion was put and agreed to.

The Hon'ble MR. BOURDILLON said:—"I have now the honour to bring forward the amendment to the Municipal Bill which stands against my name,

and the consideration of which, it will be remembered, was postponed at the last occasion by direction of the President upon the suggestion of the Hon'ble MR. ALLEN.

"The circumstances which led up to the introduction of this amendment have already been mentioned. Briefly, the difficulty is this—that sometimes considerable delay occurs in the election of a Vice-Chairman or the appointment or election of a Chairman for a new body of Commissioners. As the ordinary official life of a Municipal Commissioner, a Vice-Chairman, or a Chairman is three years, the result is that the Commissioners at the end of their term go out of office some weeks, or sometimes months, before their Chairman and Vice-Chairman. In these circumstances, the old Chairman and Vice-Chairman continue to preside over a body of Commissioners who did not elect or nominate them. The Hon'ble the Advocate-General has given his opinion that such a state of things is quite legal, but it is obvious that the position may often be trying, and especially will this be the case when—as may easily happen—the old Chairman and Vice-Chairman may not be included in the new body of Commissioners.

"To remove this difficulty and to arrange that a Chairman and Vice-Chairman shall go out of office as soon as possible after the body of Commissioners over whom they preside, is the object of the amendment now before Council.

"But objections have been taken to the amendment as originally drawn, and I have now, with the permission of the President, to suggest that the amendment may take the form which it bears on the printed slips supplied to each member—a form for which I am indebted to the Hon'ble MR. COLLIER—

'After section 26, the following section shall be inserted:—

'26A. Notwithstanding anything contained in sections twenty-four and twenty-five, the Chairman and Vice-Chairman of any municipality shall resign their office at the first meeting of the body of Commissioners newly appointed and elected at which a quorum shall be present. The meeting shall thereupon proceed to elect, or to request Government to appoint, a Chairman, and to elect a Vice-Chairman.'

"Section 15 of the Bill proposes to enact that the outgoing Commissioners shall hold office till the first effectual meeting of the new Commissioners, and the amendment as now framed provides that the Chairman and Vice-Chairman shall go out of office at the same time, and that the meeting shall forthwith

proceed to elect their successors or to elect a Vice-Chairman and ask Government to appoint a Chairman. I submit that the amendment supplies a real want, and that it will incidentally decide a question which has sometimes given rise to much local feeling, viz., who shall preside at the meeting for the election of new officers. In many cases, the outgoing Chairman claims the right to preside at this meeting, but he will now have no title to do so, for, since he and the Vice-Chairman will already have resigned, the meeting will be at liberty to elect a President *ad hoc*, which is doubtless the proper course. I, therefore, recommend that the amendment be accepted as it now stands."

The further consideration of this amendment and the next moved by the Hon'ble MR. BOURDILLON that in section 16 of the Bill for the number "26" the number and letter "26A" and for the number and letter "26A" the number and letter "26B" be substituted were again postponed to the next sitting of the Council.

The Hon'ble BABU SURENDRANATH BANERJEE moved that in section 22 of the Bill, at some convenient place, the following proviso be introduced:—

"Provided that when the Commissioners of one municipality are required to show cause under sub-section (*1*) against any such scheme, a resolution against the introduction of such scheme passed at a meeting specially convened for the purpose, in favour of which a majority of not less than two-thirds of the whole number of Commissioners shall have voted, or when the Commissioners of two or more municipalities are required to act conjointly with each other for that purpose, a similar resolution passed by the Joint-Committee constituted under section 37B, in favour of which a majority of not less than two-thirds of the total number of votes allotted to such municipalities and apportioned to each of them according to their respective incomes shall have been recorded, shall be final, and in either case no further action shall be taken by the Local Government under the provisions of this section."

He said:—

"The difference between this amendment and the one which originally stood against my name is that the amendment, as altered, allows the Commissioners to impose their veto at an earlier stage of the proceedings than what was contemplated under the original amendment. At the last meeting of the Council, the hon'ble and learned Advocate-General remarked that one of the amendments which I had the honour to move was unnecessary and uncalled for. I regret I could not acquiesce in the justice of that observation, and I am certain that when the hon'ble member comes to reconsider his remarks, he

will find reason to modify the severity of the criticism which he passed on that occasion. However that may be, I think there can be but one opinion with regard to the question now before the Council. It involves a consideration of the gravest public importance. The section to which my amendment refers represents an important departure in municipal law. It introduces a principle unknown to our municipal institutions. It is not control but compulsion that is sought to be secured. The powers of control are there reserved to the Government under section 64 of the Act. These powers have been confirmed and consolidated by the provisions of this Bill; *first*, as regards the appointment of an assessor by the Government when the assessments made in any municipality are considered to be unsatisfactory or inequitable; *seconally*, as to the appointment of auditors when the accounts of a municipality are in a state of hopeless confusion. It is worthy of remark that the Act of 1876 did not secure to the Government the powers of control reserved to it under the Act of 1884. The powers of control are a creation of the Act of 1884, and now we pass from control to compulsion. I should be guilty of grave injustice were I to question the motives of the Government. The Government has in this matter been actuated by the highest and purest intentions, namely, by the desire to reduce the terrible record of mortality due to causes that are in their nature preventible. Cholera and fever are the two great scourges of Bengal—awful visitations of Providence that decimate more than a million of our people every year. A Government that seeks by its measures to reduce such a terrible death-rate is entitled to our lasting gratitude. But what is felt is, that the Government should in this matter co-operate with the representatives of the people; that they should not coerce them, but endeavour to carry them with it in the path of sanitary improvement.

"Health is a matter of such first importance, human life is such a sacred thing, that I should not hesitate to have recourse to compulsion if I did not believe, having regard to the public controversy which has taken place since the Belvedere Conference, that compulsion, pure and simple—compulsion which went beyond the limits of moral pressure—would end in failure. Sanitation is a practical art: it is a branch of the general administration. It is an axiomatic principle that the sanitarian must carry the people along with him. If he advances ahead of public opinion, he incurs the risk of failure; if he defies public opinion, runs counter to it, or seeks to coerce it, failure is inevitable.

[*Babu Surendranath Banerjee.*]

No Lieutenant-Governor was more partial to personal government or was less influenced by sentimental considerations than the late Sir Ashley Eden. Let me quote his remarks bearing upon this point in connection with a controversy between the Calcutta Corporation and their Health Officer, Dr. Payne:—

'Mr. Eden is persuaded that to make sanitation efficient in Calcutta, the people of the city must be led, and not driven, into co-operation with the Sanitary Department. Dr. Payne should bear in mind that one case in which native society is induced by conviction to adopt a sanitary theory is worth hundreds of cases in which they are pressed into submitting to reforms of the benefits of which they are not satisfied. The Sanitary Officer must remember that the principles and theories which to him seem so obvious and so indisputable have not even yet received practical acceptation in many countries in a much more advanced condition of social progress than India. In some of the finest cities in civilized Europe, with every appliance and convenience for sanitary improvement available, there are streets, lanes and houses whose description, if faithfully given, would throw into the shade the vivid pictures of the filth of Calcutta so graphically drawn by Dr Payne.'

"I invite the Government to adopt the principle which is here so emphatically set forth, and to accept it for the sake of the great experiment upon which it is about to embark. By conciliating public opinion, by meeting it half way, Government will more effectually promote sanitation than by the adoption of compulsory measures. Let me here gratefully acknowledge that Government has already done much in this direction. The Bill provides that before any municipality can be required to provide a system of water-supply or a system of drainage, it will be called upon to show cause why it should not carry out the scheme. The explanation of the municipality will be considered by the Government. If satisfactory, no doubt it will be accepted. If, being unsatisfactory, it is rejected, the Government will publish its decision with a full statement of the reasons thereof. These are important concessions to public opinion. I ask the Government to advance a step further and to crown the edifice of its graceful concessions by recognizing the principle in the Bill that where there is a clear, emphatic and overwhelming consensus of opinion against any proposal which the Government makes, it shall be abandoned. For what does my amendment propose? It says that a municipality being called upon to show cause, if two thirds of the whole number of Commissioners vote against any scheme, or when several municipalities are called upon to show cause if two-thirds of the whole number of votes allotted to a Joint-Committee constituted under section 37B are recorded against it, the scheme shall be abandoned by

the Government. Let it be observed that a vote against the Government by a bare majority will be inoperative; a majority of two-thirds voting at the meeting would be infructuous: it must be a majority of two-thirds of the whole number of Commissioners. I am sure such a vote would not be recorded against the Government except in a case of real and absolute necessity. I rely upon the precedent of a great municipality which I have the honour to represent in this Council. Sections 39 and 41 of the Calcutta Municipal Act lay down the procedure under which some of the high officers of the Corporation may be removed from their office. They provide that the Chairman, Vice Chairman and certain other officers of the Corporation, especially mentioned in the sections referred to, can only be removed from office if, at a meeting specially convened for the purpose, two-thirds of the Commissioners present vote for the removal of any such officer. These sections have remained inoperative—not that they were never sought to be enforced. There was at least one case where the aid of these sections was invoked, and invoked in vain. The two-thirds majority could not be obtained.

"It would be impossible under the terms of my amendment for a small municipality to stand in the way of any great sanitary improvement in which larger and more important municipalities may be interested. The votes will be allotted to the municipalities according to their income. This is not a novel procedure, but one with which hon'ble members are acquainted in connection with the election of Members of Council by municipalities and District Boards.

"My amendment proceeds upon the principle of local option, which has already been adopted in the Drainage Bill, with this difference that the concession which I pray for is much more restricted than what has been so freely granted to the local bodies under the Drainage Bill. Under the Drainage Bill, the Government may take the initiative, but the last word will lie with the District Board. The assent or dissent of the District Board is conclusive, and its assent or dissent will be expressed by a bare majority. The Drainage Bill and the clauses which we are now considering are allied to each other. They are kindred measures; they refer to the same subject; they are the outcome of the same Conference; they should proceed upon the same lines. If, as regards the rural bodies, the principle of local option has been adopted in cases such as those we are dealing with, the same principle should also be adopted as regards the municipalities. If in the case of the rural

bodies the principle of coercion has been abandoned, it should also be given up in the case of the municipalities which enjoy a much larger measure of self-government.

"I have heard it said that it would involve loss of prestige on the part of the Government if, having called upon a municipality to undertake a scheme of water-supply or a scheme of drainage, it was to give it up at the bidding of the Commissioners. I have yet to learn that a Government loses prestige or forfeits popular regard by deference to popular opinion. Why, Sir, this very Municipal Bill which we are now considering affords striking evidence in support of the anxious solicitude of the Government to be guided by the expression of public opinion. What a vast difference between the Bill such as we now have it and the Bill such as it was, as originally drafted. Clause after clause have been drafted and re-drafted in deference to the demands of public opinion. Why, only the other day a coercive clause which had found its way into the Fire-brigade Bill was abandoned in deference to a strongly expressed opinion by a member of the Select Committee.

"I very much fear compulsion will do more harm than good. It will irritate public feeling; it will alienate the sympathies of the people; it will array them against reforms, in favour of which the whole of whatever there is of popular sentiment should be enlisted. For ten years you have had the sections relating to control on the statute-book. How often has it been found necessary to enforce them? I have great faith in large bodies of men acting together. They seldom go wrong. They exemplify the old adage that the voice of the people is the voice of God. Our municipalities are daily improving in knowledge, in efficiency and in administrative capacity. Day by day they are being penetrated with a deeper sense of responsibility. Would you weaken their sense of responsibility by holding *in terrorem* over their heads the punitive clauses of a compulsory enactment? I would advise the Council to trust them, to repose confidence in them, to put faith in their honesty, their public spirit, their devotion to their duties. Your trust will not be abused, your confidence will not be misplaced. Let the compulsory clauses be abandoned; let the principle of local option be recognized. It will be a graceful concession; it will not be soon forgotten; the memory of it will long linger in the public mind; it will be deeply appreciated by the municipalities and the country, and public opinion thus conciliated will enforce obedience to the

mandates of Government with an authority such as no Government in t world can command."

The Hon'ble MR. BOURDILLON said:—"It is to be observed in the first pla with reference to this amendment, that it seeks to deprive Government of t final decision on the question of schemes of drainage and water-supply, and carried, it will become possible for the local authorities to resist successfully t proposed reform. The earlier sections 37 B to 37J, as they stand in the Bi give the initiative to the local bodies. Section 37K provides for the ca of a municipality, or two or more municipalities and local bodies, abstainir from action and being then required to take action by Government. *A prio* it would appear that after ample time has been given to the local authoriti to object the ultimate decision should be left to Government, and it wou not, I think, be unreasonable to ask this Council to declare that this pow should be given. But it is understood that an apprehension exists to the effe that the law if passed in this form, would be used to force upon an unwillir municipality reforms which it neither appreciates nor desires. Such an appr hension, I need hardly say, has little foundation in fact, but I am authoris to say that, in pursuance of the policy of moderation which Government h throughout maintained in regard to this Bill, the Lieutenant-Governor is willi to waive under certain conditions the final word on this point. The amen ment, as it now stands, will still leave to Government the decision in doubtf cases, but declares that if local feeling is so unitedly hostile that two-thirds the Commissioners of a single municipality, or two-thirds of the Joint Con mittee when more than one local body is concerned, pass a resolution again the scheme—in that case I say Government shall accept the remonstrance a an authoritative expression of local opinion and cease to take action in t matter. On the whole, I am inclined to think personally that the proposal not unfair. Hon'ble members will know that a two-thirds majority of th whole numbers of any local body is not easy of attainment, and therefore whe such a majority is secured it may be taken as entitled to great weight. therefore intend to offer no objection to the amendment in its latest form."

The Hon'ble MR. LYALL said:—"As this amendment has been accepte by the hon'ble member in charge of the Bill, I wish to suggest whether would not be better to reconstruct the whole section. It seems to me that th

body of the section is somewhat conflicting with the amendment. I think it would be better to postpone the consideration of the amendment, so as to introduce it in a more workable shape."

The Hon'ble SIR CHARLES PAUL said:—"Now that we hear that the municipality has so far advanced in intelligence and independence and honesty of purpose as to deserve the high and grandiloquent eulogium of the hon'ble mover of this amendment, I am glad that the Government does not press this compulsory provision of the Bill. For my own part, I am for the amendment, because I think municipalities now understand their own interests better, and that that justifies the hon'ble member in saying that we may trust them, and that seriously speaking anything like the application of a *vis major* is unnecessary."

The Hon'ble THE PRESIDENT said:—"I associate myself with the remarks which fell from the hon'ble member in charge of the Bill, as well as from the Hon'ble the Advocate-General. I think this amendment is a reasonable and a sensible amendment, and I think there is really no risk that we should ever have a thoroughly sound scheme rejected by a majority of two-thirds of the whole body of Commissioners of the municipality concerned. When the suggestion as to this amendment was first made, my only anxiety was with regard to the case in which a scheme was framed for a series of municipalities, and in which the refusal of one or two small municipalities might block the whole scheme or cause such an increase in the cost of carrying out the whole scheme, as would impose a severe burthen upon the others. But as the amendment which has been brought forward to-day has completely covered that case and removed any anticipation of danger from such a cause, we may safely accept it. With regard to what fell from the Hon'ble MR. LYALL, I do not see exactly the difficulty of wording which he referred to, but it will be understood that when all the amendments have been considered and passed, the final revision of the wording will be considered by the Legislature, and any amendments necessary from the draftsman's point of view will be laid before the Council at the last stage when the Bill comes forward to be passed. I think, therefore, that it is not necessary to postpone the consideration of this amendment. The only thing that occurs to me is, that I should like to know whether the Hon'ble MR. GHOSE is prepared to vote for the amendment now before the Council, and to abandon the next amendment in the agenda paper. The two amendments appear to me to cover almost the same ground."

The Hon'ble MR. GHOSE said:—"I will, with your permission, Sir, ask that the sitting of the Council may be now adjourned, so that I may consider whether it will be necessary for me to bring forward my amendment. The first of my two provisos is quite covered by my hon'ble friend's amendment, but the second proviso somewhat differs from the present amendment, and I shall therefore ask, Sir, you to give me time to consider whether it will be worth while to press that portion of my amendment."

The Motion was put and agreed to.

The consideration was postponed to the next sitting of the Council of the Hon'ble MR. GHOSE's motion that in section 22 of the Bill, after sub-section (*3*) of section 37K, the following provisos be added:—

"Provided that no such order shall be made in respect of any municipality, the Commissioners of which, upon being required to show cause under sub-section (*1*), shall, by a resolution in favour of which not less than two-thirds of the whole number of Commissioners shall have given their votes at a meeting specially convened for the purpose, determine that such supply of water or such drainage is unsuitable or unnecessary or would be too expensive for such municipality:

"Provided further that if within two months from the date of the publication of the particulars of any such scheme in the *Calcutta Gazette*, a petition is presented to the Local Government by a majority of not less than two-thirds of the registered rate-payers of a municipality, objecting to the compulsory introduction of such scheme into such municipality the Commissioners thereof shall not be compelled to carry out such scheme."

The Hon'ble BABU SURENDRANATH BANERJEE moved that in the first paragraph of section 46 of the existing Act, the words "Health Officer or Assessor" be substituted for "or Health Officer." He said:—

"As the Government is prepared to accept this amendment, it is unnecessary for me to detain the Council with any explanation."

The Hon'ble MR. BOURDILLON said:—"My acceptance of this amendment is subject to certain modifications which I shall shortly indicate, and with that reservation I have little objection to offer to it. Its scope is merely supplementary, and intended to supply an omission; but it will, if accepted, read with section 40 of the Bill as it now stands, operate to leave in the hands of the Municipal Commissioners the appointment of an Assessor and the fixing of his salary.

[*Mr. Bourdillon; the President.*]

"Section 40 of the Bill provides for the appointment of an Assessor, but says nothing about his pay, but the Hon'ble Mr. COLLIER has an amendment, No. (*13*) in the List of Business, to correct this omission and to enable Government to fix a reasonable salary for the Assessor and his establishment. If the present amendment be carried and section 40 be not altered at the same time, as I hope it will be, then any municipality will be able to frustrate the intentions of Government by appointing an Assessor on some salary so inadequate that no one will be found to accept the appointment."

The Hon'ble THE PRESIDENT said:—"I think it is hardly necessary to anticipate what the hon'ble member in charge of the Bill fears may happen, namely, the appointment of an Assessor on so low a salary that no one will be found to accept the office. I think we must assume that municipalities will act reasonably."

The Motion was put and agreed to.

The consideration of the other amendments was postponed to the next sitting of the Council.

The Council adjourned to Saturday, the 14th April, 1894.

CALCUTTA;
The 25th April, 1894.

GORDON LEITH,
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

Reg. No. 84G—300—28-4-94.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892.

The Council met at the Council Chamber on Saturday, the 14th April, 1894.

Present:

The Hon'ble Sir Charles Alfred Elliott, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble Sir Charles Paul, K.C.I.E., *Advocate-General*.

The Hon'ble T. T. Allen.

The Hon'ble H. J. S. Cotton, C.S.I.

The Hon'ble Sir John Lambert, K.C.I.E.

The Hon'ble D. R. Lyall, C.S.I.

The Hon'ble J. A. Bourdillon.

The Hon'ble Maulvi Abdul Jubbar Khan Bahadur.

The Hon'ble F. R. S. Collier.

The Hon'ble C. E. Buckland.

The Hon'ble C. A. Wilkins.

The Hon'ble Maulvi Syed Fazl Imam Khan Bahadur.

The Hon'ble Surendranath Banerjee.

The Hon'ble L. Ghose.

The Hon'ble Maulvi Serajul Islam Khan Bahadur.

The Hon'ble W. C. Bonnerjee.

The Hon'ble J. G. Womack.

The Hon'ble J. N. Stuart.

BENGAL PROVINCIAL SERVICE BUDGET FOR 1894-95.

The Hon'ble Mr. Bourdillon said:—"Before I reply to the questions of which notice has been given, I must take the liberty of calling the attention of hon'ble members to a fact which must I believe be generally known, but which is very frequently forgotten, although it is essential that all should constantly bear it in mind, and that is that Budget provision is an entirely different thing from sanction. The Budget is merely a forecast of probable expenditure, and the fact that a sum has been entered therein is no authority whatever for expenditure: every one of the many items which go to make up the grand total of

expenditure requires the definite sanction of a particular authority under precise rules which are well-known to all disbursing officers. Consequently, when a grant or allotment is made, it is by no means certain that the whole or indeed any part of it will be expended."

RECEIPTS.

STAMP REVENUE.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

I. The receipts from "Stamps" under Head IV of the Budget have been estimated at Rs. 1,20,38,000 for 1894-95. Information is solicited as to how much of this sum is to be credited under Law and Justice as representing stamp revenue derived from proceedings in connection with the Courts of Law?

The expenditure under the head of Courts of Law (Head 19B) is estimated at Rs. 88,76,000 for 1894-95; the receipts from the Courts of Law (Head XVI) are estimated at Rs. 9,04,000 for 1894-95. There is thus a heavy deficit. Is not this deficit made good from the Stamp revenue? Is any surplus balance left? If so, what is the amount of the surplus balance to the credit of the Courts of Law?

The Hon'ble MR. BOURDILLON replied:—

"The revenue shown under 'Stamps' (Head IV) is collected under two Acts—the Indian Stamp Act, I of 1879, and the Court-fees Act, VII of 1870. Stamps prescribed by the latter are called indifferently judicial or court-fee stamps, and the receipts from them for 1894-95 may be taken at Rs. 1,14,25,000. Three-fourths of this sum is credited to Provincial Funds, so that out of the total of Rs. 1,20,38,000, the sum of Rs. 85,69,000 represents the receipts to be derived by the Local Government in 1894-95 from court-fees levied in stamps. These receipts are not credited to Law and Justice at all, but to the general head of Stamps, as the Budget shows.

"The deficit referred to by the hon'ble member is met from the general revenues of the Province, and no comparison is made in these accounts between receipts from Stamps on the one hand and expenditure upon Courts of Law on the other."

EXCISE.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

II. Receipts for license and distillery fees and duties for the sale of liquors and drugs under Head V, "Excise," are estimated for 1894-95 at Rs. 91,50,000. How much of this revenue would be derived from outstills, stating the number of outstills? What was the number of outstills in 1893-94, and the revenue derived therefrom? The explanatory note says that administrative reforms have been introduced rendering more elastic the arrangements for settling shops for the sale of country spirits. What is the nature of these arrangements? Are they at all calculated to increase the consumption of country spirits?

The Hon'ble MR BOURDILLON replied:—

"Judging from the actuals for 1892-93, and the figures for nine months of 1893-94, the revenue from outstills during 1894-95 may be estimated at twenty-six and-a-half lakhs of rupees. The number of outstills in 1893-94 was 2,004, but the revenue derived therefrom cannot at present be stated.

"The administrative reforms referred to in the explanatory note comprise the concession to local officers of a larger discretion in regard to the upset price of shops and stills, and the withdrawal of certain restrictions on the number of vats and the size of stills. Experience has shown that, owing to a disregard of local conditions, the upset price has sometimes been fixed too high, with the result that the shops remain unlet. In these circumstances the Government revenue suffers unnecessarily in areas where the shops have not been let, the licensees of neighbouring shops obtain a profit which they were not intended to get, and a strong incentive is offered to the distillation of illicit liquor. District officers have accordingly been authorised to lower the upset prices wherever the circumstances demand it. These orders are not calculated to increase the consumption of country liquor, but merely to prevent illicit liquor from passing into consumption without taxation."

PROVINCIAL RATES.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

III. Under the Head VI, "Provincial Rates," the revised estimate as regards the Public Works Cess for 1893-94 is fixed at the sum of Rs. 41,65,000.

Will the Government state how much of this sum was spent upon ordinary public works, and how much for protection against famine and upon the following extraordinary public works; the three irrigation canals on the Sone, in Orissa and at Midnapore, and the State Railways of Port Canning, Nalhati, Northern Bengal and Tirhut?

The Hon'ble MR. BOURDILLON replied:—

"This question has apparently been asked with reference to the arrangement sanctioned by the Government of India in 1877, when the management of certain works classed as productive public works was made over to the Government of Bengal, together with the responsibility for the payment of interest on the capital expended on their construction. In order to enable the Local Government to meet this burden, the Provincial Public Works Cess was introduced, and Provincial responsibility for all productive public works existing and prospective was definitely assumed: at the same time the Local Government was given full liberty to utilize the balance, if any, of the proceeds of the cess on other works tending to the improvement of the country. As explained in reply to a similar question put before this Council on the 9th February, 1894, no separate account is maintained, in which the receipts from the cess are balanced against the definite expenditure for which the cess was imposed. The possibility of doing this has been destroyed by the system on which the Provincial contracts are framed, under which the whole income entrusted to the Provincial Government is balanced against the whole expenditure imposed upon it, and no special hypothecation of particular sources of revenue to particular modes of outlay can be maintained.

"The following general information, however, can be given. In the first place, the Provincial Government has been relieved of all administrative charges connected with railways, and especially of the charge for interest on account of the railways mentioned above. As regards canals, the interest payable for 1894-95 on the capital outlay on the three canals mentioned above, which are classed as 'Productive' or 'Major Works,' amounts to about 24½ lakhs. The difference between this sum and the estimated receipts (42 lakhs), is about 17½ lakhs. Against this sum may be placed the 8 lakhs granted in 1894-95 for Irrigation Minor Works, plus the 7½ lakhs granted

for embankments, plus the 7 lakhs to be expended on roads, plus a considerable part of the 5½ lakhs granted to District Boards and shown under the head of Contributions. All this expenditure can, by the spirit and letter of the law, be debited to the Public Works Cess, and it greatly exceeds the receipts from that cess."

CINCHONA CULTIVATION.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

IV. Under Head XXI, "Scientific and other Minor Departments," the estimate of receipts from cinchona plantations in 1894-95 is put down at Rs. 1,25,000, against Rs. 1,35,000 in the revised estimates of 1893-94. Does the falling off indicate want of appreciation by the people of the system of selling quinine in small packets through the agency of the post-office? Will Government state how much was realized from such sales during 1892-93 and 1893-94?

The Hon'ble MR. BOURDILLON replied:—

"The actual receipts in 1892-93 under the sub-head 'Cinchona Plantations' were Rs. 1,18,000, and in view of the growing popularity of the pice-packets of quinine supplied through the post-offices, the estimate for 1894-95 has been placed at Rs. 1,25,000. The reason why the revised estimate for 1893-94 was placed Rs. 10,000 higher than the sanctioned estimate is, that in that year unusually large quantities of the drug were supplied to the Medical Store Department at Mian Mir.

"With regard to the second part of the question, 475lbs. of quinine were issued in 1892-93 to be made up into pice-packets, and 1,490lbs. were issued in 1893-94. The receipts credited were Rs. 569 from 1st December, 1892, to 31st March, 1893, and Rs. 21,492 from 1st April, 1893, to 31st March, 1894.

"These figures will show that far from there being a want of appreciation of the system, the demand for the pice-packets is rapidly increasing, and quinine for this purpose has been supplied to Assam and the Central Provinces, while negotiations are still going for supplying Burma: the Madras Government has adopted the Bengal system for the distribution of its own quinine grown in the Nilgiris."

VETERINARY.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

V. Under the head of "Scientific and other Minor Departments" (No. XXI) the falling off in the veterinary receipts from Rs. 25,000 in 1892-93 to Rs. 5,000, the estimate for 1894-95, is not explained. Similarly, the falling off in Sone Canal receipts under Head XXIX, "Major Works (Direct Receipts)" from Rs. 10,56,373 in 1892-93 to Rs. 8,35,000, the estimate for 1894-95, is not explained.

The Hon'ble MR. BOURDILLON replied:—

"The information as to veterinary receipts has already been furnished and will be found in paragraphs 18 and 37 of the explanatory note. The amount shown against 'Veterinary Receipts' for 1892-93 represents the contribution of Sir Dinshaw Manockji Petit of Bombay towards the cost of constructing the Veterinary School and Hospital at Belgachia. The sum of Rs. 5,000 shown for 1894-95 is the estimate of fees to be paid by owners of cattle and horses for the keep of their animals while in the hospital.

"The high receipts under 'Sone Canals' in 1892-93 were due partly to extensive rabi irrigation at the beginning of 1892 induced by the early cessation of the preceding rains and partly to large recoveries of the arrears of previous years. The system of collection has now been placed on a satisfactory footing, and few or no arrears are allowed to accrue: consequently the estimate for 1894-95 represents the current demand only. The hon'ble member is doubtless aware that the receipts from irrigation canals fluctuate with the rainfall."

CIVIL WORKS.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

VI. Under Head XXXII there is a steady falling off in the ordinary normal receipts under "Civil Works in charge of the Public Works Department," which is not explained. The actuals for 1892-93 came up to Rs. 1,63,060; the revised estimates for 1893-94 came up to Rs. 1,30,000; the estimates for 1894-95 have been fixed at Rs. 1,20,000. This is not explained by the following remarks made in the explanatory note:—"The receipts under Civil Works were swelled by better revenue from ferries, but chiefly by a special

payment of Rs. 99,250 by the Darjeeling-Himalayan Railway in settlement of a disputed claim."

The Hon'ble MR. BOURDILLON replied:—

"The remarks quoted from paragraph 7 of the explanatory notes regarding the increase of revenue in 1893-94 refer to the Civil Works receipts as a whole, and not to the special item of ordinary receipts from Civil Works in charge of the Public Works Department. These ordinary receipts are derived partly from the sale proceeds of buildings, old materials, and tools and plant, and must necessarily vary greatly from year to year according to the materials available for disposal."

FERRY RECEIPTS.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

VII. Will the Government state the total amount of the ferry receipts under Head XXXII? How much of it is made over to the District Boards and how much absorbed in the Provincial Funds? Is there any rule followed in making this division of the ferry receipts between the Provincial and the Local Funds?

The Hon'ble MR. BOURDILLON replied:—

"The receipts from ferries credited to the Provincial and District Funds respectively are as follows:—

		1892-93. (actuals) Rs.	1894-95. (estimate) Rs.
Provincial Funds	...	2,24,065	2,25,000
District Funds	...	3,68,771	3,85,000
Total	...	5,92,836	6,10,000

"These receipts are divided between the Provincial Government and District Boards according to no fixed proportion: the total contribution to District Funds is an aggregate of many district grants, each of which was separately allotted on the merits of the case. On the formation of District Boards under

the Local Self-Government Act, the control of certain branches of the Provincial administration was made over to those bodies, and when it appeared that the aggregate cost of maintaining these departments in their then state of efficiency would exceed the departmental receipts, the ferry revenue was selected as a convenient vehicle for adjusting the difference, and the deficit was made good by the transfer to the District Board of a certain number of the ferries of the district, the net proceeds of which were expected to make up the deficiency. The remainder of the ferries have been retained under the direct management of Government. In districts where the receipts from all the ferries were insufficient to cover the deficit, special additional grants have been made from the Provincial Fund to place the District Fund in equilibrium."

EXPENDITURE.

SALARIES OF MENIALS.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

VIII. The estimates bear no indication of any increased expenditure due to compensation for dearness of provisions to the menial servants of Government. Will Government state whether any such compensation was paid, and if so, what was the amount, and whether in view of the long-continued scarcity prices in several districts during the expiring financial year, Government considers the grant adequate to relieve the hardship caused to its poorly-paid servants by high prices ?

The Hon'ble MR. BOURDILLON replied :—

"The payment of compensation for dearness of provisions is governed by the orders contained in section 72 of the Civil Account Code, according to which when in any district common rice is dearer than one rupee for 12 seers, the pay of all menial servants in such districts drawing Rs. 5 or less a month as whole-time servants of Government may be raised by one rupee a month. When the common food-grain of the district becomes dearer than 10 seers for the rupee Government may sanction the grant of Re. 1-8 per mensem to all whole-time servants whose pay was not higher than Rs. 12 a month. Advantage was taken of these provisions during the past year, but the Financial Department of this Government does not possess the detailed figures showing the amount expended under this head."

[*Babu Surendranath Banerjee*; *Mr. Bourdillon*]

CUSTOMS ESTABLISHMENT.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

IX. Under the sub-head Customs in Calcutta (Head 9) the expenditure has increased from Rs. 5,17,000, the revised estimate for 1893-94, to Rs. 5,38,200, the estimate for 1894-95. It was explained that the increase is partly due to exchange compensation allowance and partly to the entertainment of additional preventive Wharf establishments provisionally sanctioned in connection with the shipment and loading of goods at the Kidderpore Docks. If the establishment was appointed provisionally, will it be required for the whole year, especially having regard to the fact that the Docks are so little used?

The Hon'ble MR. BOURDILLON replied:—

"It is impossible to say for how long the establishment will be entertained, or whether it will be entertained at all. A small provision has been made to meet the contingency of their employment, and any unspent portion of the allotment will lapse to Government at the close of the year."

LAW AND JUSTICE.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

X. Under the head of Law and Justice (19A) the expenditure on the Civil and Sessions Courts has risen from Rs. 45,93,000, the revised estimate for 1893-94, to Rs. 46,37,000, the estimate for 1894-95. The explanatory note says that provision has been made for the appointment of an Additional Judge for the districts of Dacca, Jessore and Faridpur, and two Munsifs, together with increased provision for their establishment. Does the Government consider the provision sufficient to meet the increasing pressure of work on the subordinate judiciary of the country?

The Hon'ble MR. BOURDILLON replied —

"As stated in paragraph 10 of the explanatory notes, the estimate for 1894-95 provides for an increase of more than a lakh of rupees over the revised estimate for 1893-94 for improvements in the administration of justice, and the Government considers that the increase is adequate for the present.

"The hon'ble member is doubtless aware that a very large increase in the number of Subordinate Judges and Munsiffs took place in the years 1888, 1889,

and 1890, after prolonged discussion between the Bengal Government and the High Court and the Government of India."

JAIL EXPENDITURE.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

XI. In explaining the increase in Jail expenditure under head 19B, the explanatory note says:—"With a steadily increasing jail population, jail expenditure on clothing and rations must necessarily rise" This, however, would not explain the increase in the charge for superintendence from Rs. 52,836, the sanctioned estimate for 1893-94, to Rs. 55,000, the estimate for 1894-95. What was the jail population for 1892-93 and 1893-94?

In explaining the increase of expenditure under Jails, no reference is made to the prevailing high prices of food-grains. Have such high prices contributed to increased expenditure? If so, to what extent?

The Hon'ble MR. BOURDILLON replied:—

"The small increase in the charge for superintendence from Rs. 52,836 to Rs. 55,000 is due principally to exchange compensation allowance (Rs. 1,500), to the annual increments in the pay of clerks (Rs. 992), and to travelling allowance.

"In 1892, the daily average jail population of the Province was 17,180: in 1893, it was 17,724.

"The increase of expenditure under the head of Rations is due partly to the increasing jail population and partly to the high price of food-grains.

"It is impossible to give exact figures showing how far the estimated increase is due to the higher price of food. Statistics showing the variations in the price of the principal articles of diet are published every year in the Annual Resolution of Government on Jail Administration. It was stated in last year's Resolution that the average price of rice rose from Rs. 2-1-9 per maund in 1891 to Rs. 2-9-1 in 1892."

POLICE CHARGES.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

XII. The expenditure under head 20 "Police," sub-head "District Executive Force," has risen from Rs. 40,30,000, the revised estimate for 1893-94,

to Rs. 42,99,000, the estimate for 1894-95. The explanation given is, that the increase is provided to carry out improvements recommended by the Police Committee, and also for exchange compensation allowance. Is it proposed to carry out the views of the Police Committee in the matter of the increase of pay recommended by the Committee to Sub-Inspectors and Inspectors of Police?

The Hon'ble Mr. Bourdillon replied:—

"The proposals submitted to the Government of India contemplated a total expenditure of Rs. 3,08,309 during the first year in which they were in operation, but in the absence of sufficient funds the most important items only have been selected as follow:—

	Rs.
(*a*) Cost of increased allowances for holding charge of a station	1,53,240
(*b*) One-tenth of the cost of substituting Sub-Inspectors for head-constables*	28,200
(*c*) Cost of increasing constabulary employed on duties other than investigation ...	22,310
(*d*) Cost of free kits for ditto	4,665
(*e*) Cost of giving to Military Police recruits the minimum pay of sepoys as soon as they are efficient	480
Total ..	2,08,901

* (Scheme to be carried out in ten years.)

"As will be seen from items (*a*) and (*b*), three-fourths of the proposed expenditure will be devoted to the better payment of the superior grades of native officers in the district executive force."

EDUCATION AND MEDICAL.

The Hon'ble Babu Surendranath Banerjee asked—

XIII. An explanation is solicited as to why there has been a decrease in expenditure in the following items under Heads 22 "Education" and 24 "Medical"?

(*a*) The expenditure on "Government Schools, General" for 1893-94 was Rs. 5,35,000; the estimate for 1894-95 has been fixed at Rs. 5,30,000, though no doubt under the general head of Education the estimate provides for an increase of a lakh of rupees, a part of which is due to exchange compensation allowance.

(*b*) The expenditure on hospitals and dispensaries for 1893-94 was Rs. 4,27,000; the estimate for 1894-95 has been fixed at Rs. 4,13,000.

The Hon'ble MR. BOURDILLON replied:—

"(*a*) The decrease of Rs. 5,000 under 'Government Schools, General' in 1894-95 compared with the grant for 1893-94 is due to a reduction in the teaching staff of the Hindu and Hare Schools, which will take place upon the retirement of certain teachers, whose places will not be filled up. The total saving in consequence of such retirements, it is anticipated, will amount to Rs. 9,600, but as the arrangement will not have full effect till September, 1894, a reduction of Rs. 5,000 only has been made in the Budget.

"(*b*) The revised estimate of expenditure under 'Hospitals and Dispensaries' for 1893-94 is Rs. 4,27,000. It includes heavy expenditure for medical stores and clothing of patients, which, it is anticipated, will not be so high in 1894-95. The actuals of 1892-93 were Rs. 4,04,000, and a provision of Rs. 4,13,000 is considered to be ample for 1894-95."

DURBAR PRESENTS.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

XIV. Explanation is solicited as to why the expenditure on Durbar Presents, &c., under Head 25, "Political," has been estimated at Rs. 17,000 for 1894-95, when the actuals for 1893-94 came up to only Rs. 10,000?

The Hon'ble MR. BOURDILLON replied:—

"The actuals of any one year cannot possibly be taken as a safe guide in framing an estimate under a head of expenditure subject to such fluctuations as this is. The actuals for the four years previous to 1893-94 were:—

	Rs.
1889-90	17,000
1890-91 .	17,000
1891-92	27,000
1892-93	3,000

and the revised estimate (not the actuals) for 1893-94 stands at Rs. 10,000. The sum of Rs. 17,000 estimated for 1894-95 thus represents about the average of the previous five years."

[*Babu Surendranath Banerjee; Mr. Bourdillon; Mr. Stuart.*]

CANALS EXPENDITURE.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

XV. An explanation is solicited as to why the working expenses of the Midnapore Canal under Head 42 Irrigation—Major Works have been estimated at Rs. 2,50,000, when the sanctioned estimate for 1893-94 came up to Rs. 2,29,000, and as to why the working expenses of the Sone Canals have been estimated at Rs. 7,00,000 for 1894-95, when the sanctioned estimate for 1893-94 came up to Rs. 6,84,000?

The Hon'ble MR. BOURDILLON replied:—

"Of the increase of Rs. 21,000 in the working expenses of the Midnapore Canal for 1894-95 on the sanctioned grant for 1893-94, about Rs. 16,000 is under Establishment, due partly to the revision of grades and pay, and partly to exchange compensation allowance, and the remainder is for a provision for revetting with stone the banks of the canal to protect them against the damage caused by the wash of steamers.

"The increase in Sone Canals is wholly under Establishment, and is due to causes such as those mentioned above."

SPECIAL COMMISSIONS OF ENQUIRY.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

XVI. An explanation is solicited as to why under Head 32 "Miscellaneous," a sum of Rs. 10,000 has been estimated for 1894-95 for special commissions of enquiry? Is any Special Commission under contemplation?

The Hon'ble MR. BOURDILLON replied:—

"It is impossible to foretell the necessity of commissions such as these, but it is usual to keep a small reserve to meet the cost of any commission that may be appointed. No Special Commission is under contemplation."

CALCUTTA PILOTAGE.

The Hon'ble MR. STUART asked—

XVII. Will the Government state what are the receipts and expenditure on account of Calcutta Pilotage? The items under the head of Marine do not shew clearly what the total profit on pilotage is?

[*Mr. Bourdillon.*]

The Hon'ble MR. BOURDILLON replied:—

"The receipts aggregated 8½ lakhs in 1892-93, and the charges about 10½ lakhs, of which Rs. 8,42,000 were incurred in India, and the balance in England. The charges in England comprise leave allowances to Pilots, pensions to Pilots or their widows and families, and outfit and passage money of leadsman apprentices. The accounts for 1893-94 have not yet been made up.

"A statement attached to the printed copy of this reply shows that during the last 11 years there has been an average loss on pilotage amounting to about Rs. 2,15,000 per annum."

Statement showing the receipts and charges of the Pilotage Fund from 1882-83 *to*

YEARS.	Receipts.	CHARGES.			Surplus + or deficit —
		Paid in India.	Paid in England.	Total.	
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	Rs.
1882-83 ...	9,23,062	9,49,539	1,98,067	11,47,606	—2,24,544
1883-84 ...	8,76,585	8,71,828	1,88,896	10,60,724	—1,84,139
1884-85 ...	7,48,641	7,92,827	1,87,273	9,80,100	—2,31,459
1885-86 ...	8,30,130	7,82,053	1,89,462	9,71,515	—1,41,385
1886-87 ...	8,56,236	8,18,568	2,06,420	10,24,988	—1,68,752
1887-88 ...	8,77,282	8,10,884	2,11,640	10,22,524	—1,47,242
1888-89 ...	8,81,836	9,88,372	2,05,348	11,93,720	—3,11,884
1889-90 ...	8,18,922	11,15,684	2,24,063	13,39,747	—5,20,825
1890-91 ...	8,57,952	8,03,610	2,00,361	10,03,971	—1,46,019
1891-92 ...	9,01,447	8,20,617	1,85,233	10,05,850	—1,04,403
1892-93 ...	8,50,200	8,41,846	2,04,866	10,46,712	—1,96,512
1893-94 ...					
1894-95 ...					
1895-96 ...					
1896-97 ...					
1897-98 ...					
1898-99 ...					
1899-1900 ...					

[*Mr. Stuart; Mr. Bourdillon.*]

SMALL CAUSE COURTS.

The Hon'ble MR. STUART asked—

XVIII. Will the Government say what are the receipts and expenditure on account of the Small Cause Court, and what is the profit or loss on its working?

The Hon'ble MR. BOURDILLON replied:—

"The annual report and returns of the Calcutta Court of Small Causes for 1893 show that the total receipts amounted to Rs. 3,68,591, and the total expenditure, including refunds of receipts amounting to Rs. 47,074, was Rs. 2,16,444, giving an apparent profit of about a lakh and-a-half of rupees on the year's working. The charges, however, do not include the cost of pensions paid to retired officers of the Court, nor the price of stationery supplied, nor Public Works expenses, all of which are shown under other heads of account."

The Hon'ble MR. BOURDILLON moved for the discussion of the Bengal Provincial Service Budget for 1894-95.

The Hon'ble MR. STUART said:—"I congratulate you, Sir, and the Hon'ble the Financial Secretary in the increasing revenue disclosed by the revised Budget for the year 1893-94, and I trust that the improvement will continue during the year 1894-95. The appendices attached to the financial statement are an improvement upon the plan adopted last year, when only a bare abstract statement was presented. The detailed particulars given in them add considerably to their value and elucidate many points. I regret to notice that there is a deficit of Rs. 4,70,000 in the Budget for 1894-95, apart from the three lakhs handed over to the Imperial Government. Budgetting for a deficit, however, seems to be the order of the day, and we have the example of higher authority in adopting that course. In the present instance I do not disapprove, for I consider that there is no use in showing tempting surpluses to catch the eye of an impecunious Imperial Finance Minister. Regarding the special contribution of three lakhs, as it is called, to the Imperial Revenues, it is not, I understand, allowed by the Rules of this Council to criticise the action of the Imperial Government. But I presume I may be allowed to express a hope that the Imperial Government will, on the first opportunity, refund this forced loan. In time of war, as has been done before, or of any special distress, such as famine

or other calamity, I would gladly support such a contribution, but in the present too well-known circumstances, I desire to record my emphatic protest.

"As regards the Small Cause Court, the Hon'ble MR. RISLEY explained last year that the receipts under the head of Courts of Law formed only a portion of the total receipts, but he was unable at that time to state what the total receipts really were. We are now informed by the Hon'ble MR. BOURDILLON that the gross profits derived from the Small Cause Court, apart from deductions for pensions and certain other items, amount to one-and-a-half lakhs. Roughly, we may take it that after paying these expenses there was at least a profit of one lakh per annum. I notice, however, as stated in the explanatory note, that a reduction in the establishment and other expenditure of that Court has been made on the report of Mr. Beighton, but I gather that this reduction of establishment has not improved the efficiency of the Court; at least it is but seldom the case that reduction in expenditure leads to increased efficiency, and it appeared from the statement of the Hon'ble the Financial Secretary that the reduction was hardly necessary for the sake of mere economy, seeing that there has been a large profit.

"For many years there has been a very substantial profit, exceeding a lakh of rupees yearly, on the working of the Small Cause Court, and I venture to maintain that our finances cannot be considered to be in a satisfactory state as long as the Government depends on profits derived from the administration of justice. It is contrary to the views of the most eminent jurists that justice should be taxed: and though the hon'ble member spoke in his explanatory note of the luxury of litigation, I look upon the expression as a little joke on his part, and not as the serious opinion of a responsible administrator; for, however much the Government may want to curb the litigiousness of the people, it must be borne in mind that any unnecessary expense in dispensing justice is a distinct hardship and injustice to the poor suitor. These remarks apply with equal force to the Civil Courts throughout the whole of Bengal, for, as far as I can gather from this statement, the receipts from stamp fees and the general receipts from the administration of justice in the Civil Courts cover not only the whole expense of those Courts, but also the whole cost of the Criminal Courts, and leave a surplus to the Government of about thirty lakhs, of which apparently the Government of India receives twenty-five lakhs. I would like to ask the Hon'ble the Financial Secretary to furnish the

Council, on an early occasion, with a statement of the receipts and expenditure of the Small Cause Court for the past ten years, and also with a copy of Mr. Beighton's report on that Court."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"As this is the first occasion on which the Provincial Budget is being discussed by the enlarged Council, it may not be out of place to express our sense of recognition of the great boon which has been conferred upon the members of this Council. I am well aware of the limitation under which this right has to be exercised—we may discuss, but we cannot divide the house; nevertheless such a discussion is calculated to place the financial administration of the Province in touch with popular opinion. Restricted as the right is, its judicious exercise makes a heavy demand upon the responsibility of the non-official members of this Council in the discharge of which we have to contend against difficulties of no ordinary magnitude. I do not make this a matter of complaint. I should not be justified in making it a matter of complaint, but I state the bare truth when I say that in regard to financial matters, the Government is the master of the situation, the Government is in possession of all material information bearing upon the financial situation. Our enquiries and our observations are necessarily based upon imperfect data, and we have accordingly to throw ourselves upon the indulgent consideration of this Council and to rely upon the indulgent judgment of the country at large.

"A great deal has been said about the inelastic character of our revenues. I am not prepared to join in this complaint, at least in the unqualified form in which it is put forward. It does not represent the whole truth. It is not exhaustive of the whole case. Our revenues are inelastic only in a relative sense, as compared with the steadily growing revenues of the great European countries. Our revenues expand and increase, but the misfortune of the situation is, that our expenditure shows even a greater tendency to outstrip the limits of our revenue, and this is amply borne out by the figures of the Financial Statement which we are now considering.

"The Statement gives the actuals for 1892-93, the revised estimates for 1893-94, and the estimates for 1894-95. Looking at the figures on the receipt side, we find that the actuals for 1892-93 came up to Rs. 4,47,00,000; the revised estimates for 1893-94 are calculated at Rs. 4,56,00,000, while the estimates for 1894 95 have been fixed at Rs. 4,58,00,000. Looking at the expenditure

side, we find that the actuals for 1892-93 came up to Rs. 4,25,00,000; the revised estimates for 1893-94 are calculated at Rs. 4,26,00,000, and the estimates for 1894-95 have been fixed at Rs. 4,35,00,000. These figures are significant in their own way, and they provoke an obvious remark; for while we find that in 1893-94 the receipts show an increase of Rs. 9,00,000 over the receipts for 1892-93, the expenditure shows an increase of only Rs. 2,00,000. But this hopeful view of the matter disappears when we consider the figures for 1894-95. The expenditure has arisen by Rs. 9,00,000, the receipts only by Rs. 2,00,000. But this is not all. The cash balance for 1893-94 has been fixed at Rs. 29,00,000, but it dwindles down in 1894-95 to Rs. 22,00,000.

"But we have even less cause for congratulation when we consider some of the items which have contributed to swell the receipt side of the Statement. Among these I would mention Customs, Stamp and Excise. I desire to call the attention of the Council to a telegram which appeared in the morning papers of the 2nd April last, giving some details of the financial position of the British Isles for 1893-94. From that telegram we learn that the revenue for the British Isles for 1893-94 came up to £93,800,000; the proceeds from the Income-tax showed an improvement of £740,000 over those of the preceding year; but that (and this is the point which bears upon the remarks I am now making) there was a decrease in the receipts from Customs, Stamp and Excise. Therefore, the items which, on the receipt side of the Budget estimates of the British Isles show a decrease, are the items which in our financial statement show an increase. We may, therefore, well pause, before we join the Financial Secretary in the very hopeful view of the situation which he takes, having regard to the increase from these items. Referring to the increase in the Stamp Revenue, the Hon'ble the Financial Secretary regards it as an index of prosperity. The people being prosperous and happy, he says they indulge in the luxury of litigation. Well, Sir, litigation is a dangerous and expensive luxury. It has impoverished many a family; it has ruined many a home; it has kept burning the embers of animosities which have been fraught with disastrous consequences. I know of no section of the community which have derived any benefit from it, except that section which has furnished to this Council some of its most distinguished members.

"Coming to the receipts from 'Excise,' we have even less cause for congratulation. The increase represents an increase in consumption, which means an

increase in the demoralisation of the people. I desire to call attention to what was done in this connection some few years back in consequence of an urgent demand made by an influential Association in this City. Sir Steuart Bayley appointed Mr. Westmacott to enquire into the operation of the outstill system. The outcome of that investigation was, that the outstil system was abolished so far as regards the more populous districts in the Presidency Division. I ask the Bengal Government to complete the beneficient policy initiated by Sir Steuart Bayley, to abolish the outstill system, and to spare the rustic population of Bengal the dangerous luxury of cheap liquor made readily accessible to them.

"On the expenditure side of the accounts, our attention is arrested by the expenditure under the head of Law and Justice. Under this head an expenditure of 89 lakhs is estimated for 1894-95, against a receipt amounting to nine lakhs of rupees. So that apparently there is a deficit, and a heavy deficit; but we have just heard the Hon'ble the Financial Secretary observe that from the Stamp Revenue there are receipts to the extent of nearly 85 lakhs to be credited to the judicial courts: therefore, instead of a deficit, there will be a surplus balance of about five lakhs to the credit of the Courts of Law. The first charge upon this surplus balance should be the improvement of the administration of justice, both Civil and Criminal. Our system of administration of justice is not perfect. To say that it is not perfect is to say that it is a human institution. Why, Sir, there is that pressing question of the separation of judicial and executive functions in regard to which there is a universal consensus of opinion. A late Viceroy of India has described it as a counsel of perfection. I hold that, if there is a surplus balance available, this urgent reform should be attended to with as little loss of time as possible. Then our subordinate judiciary is undermanned and overworked. There was considerable controversy about this question a few years back. Sir Steuart Bayley described it as a triangular duel between the Government of Bengal, the Government of India and the High Court, and as the outcome of that controversy there was a considerable addition of strength to the subordinate judiciary. But the complaint is still loud and persistent; it remains unremedied and unredressed, and I cannot regard a provision for two additional Munsifs, and one additional Judge, as at all adequate, having regard to the needs of this Province. Further, the ministerial establishment attached to our Courts of Law are very much underpaid. The pay is not high enough to attract the class of men you want. Our Courts of Law are not, what they ought to be, the temples of justice and purity.

[*Babu Surendranath Banerjee ; the President.*]

"The next item of expenditure to which I shall refer is 'Education.' We have an aggregate amount of 26 lakhs put down under that head. I am thankful to observe that that sum represents nearly one lakh over last year's estimate, but having regard to the progressive character of these provinces—having regard to what has been done in other parts of the British Empire—I am constrained to observe that the grant is exceedingly niggardly. I hold in my hand a statement which shows the expenditure on education per head of the population in different parts of the Empire, and ours is the lowest. In Natal, the expenditure on education is one shilling per head of the population; in British Guiana, it is 3 shillings per head; in Jamaica, it is 11 pence; in Mauritius, it is 10 annas; in Ceylon, it is 2 annas. What do you think is the expenditure per head of the population in Bengal? It is only 7 pies. I need not read the other items in this comparative statement, because, having regard to the figures which I have just read, I think it will be admitted on all hands that the expenditure on education should be increased, and that it is necessary to increase it, bearing in mind the progressive character of the people and the enlightened policy of the Government.

"The Hon'ble the Financial Secretary has been good enough to give us the figures with regard to the expenditure under the head of Provincial Public Works Cess. I hold to the view that the first charge under this head should be the maintenance of the extraordinary public works, and the making of provision against the contingency of famine, for which indeed the Public Works Cess was originally levied. Still there would be a balance of more than 11 lakhs of rupees, which should be devoted to the carrying out of works of sanitation contemplated under the Drainage Bill.

"One other observation which I have to make is that, as we run our eyes over these accounts, we meet with a large item of expenditure under the head of Exchange Compensation Allowance. I know that, as far as this matter is concerned, the Government of Bengal has no independent voice or control, and that it must obey the mandate of superior authority; but I feel that I shall not be doing my duty if I did not record my respectful but firm protest against the exchange compensation allowance."

The Hon'ble THE PRESIDENT said:—"I must ask the hon'ble member not to make any observations on this point, as it is a matter over which the

Government of Bengal has no control, and is therefore one of the questions excluded from discussion in this Council."

The Hon'ble BABU SURENDRANATH BANERJEE continued:—"I bow to the authority of the Chair, but I must be permitted to observe that by reason of the exchange compensation allowance and the complications which have followed in its train, we have been called upon to make a payment of three lakhs to the Imperial Government. The Financial Secretary approaches the consideration of this matter with some degree of levity. To my mind it is a very serious question. It may mean the restriction or the indefinite postponement of useful public works calculated to advance the material prosperity of the country or the sanitary well-being of the people. As exchange compensation allowance has been granted to the European and non-domiciled Eurasian employés of the Government, may I say one word in behalf of the ministerial servants of the Government. They draw a miserable pay. Hard as their lot is, it is rendered doubly hard by the rise in the price of food-grains. Their case is worthy of the indulgent consideration of a generous Government.

"I cannot conclude these remarks without thanking the Hon'ble the Financial Secretary for his admirable and lucid explanatory note which has been of great service to me, and I am sure to the other hon'ble members of this Council in helping us to make our way through the somewhat dry details of the financial statement."

The Hon'ble MR. BOURDILLON said:—"I shall not detain the Council many minutes by my remarks in reply to the observations which have fallen from the two hon'ble members who have discussed the Budget.

"The Hon'ble MR. STUART expressed the hope that, when the financial position of the Government of India is more favourable, the contribution of the three lakhs which has been levied from the Provincial revenues will be repaid. It is probably in the knowledge of several hon'ble members here present that an assurance of such a character has already been given, and that in the Resolution in which the Government of India indicated their intention to levy this contribution, it was distinctly stated that as soon as possible an effort would be made to restore the sum so withdrawn from the Provincial revenues. The hon'ble member asked for a copy of the report of Mr. Beighton on the establishment of the Small Cause Court; his request for a copy of that report

will be dealt with in the Department concerned. As to the remark that the stamp duties from the Civil Courts apparently paid for the whole expenses of the Criminal as well as the Civil Courts, I wish to point out that this is not so, since very large sums are levied by the Criminal Courts also in the shape of court-fees and in cash, as well as in the way of fines and forfeitures, which are all credited in the accounts in their appropriate places under the head of Law and Justice.

"As regards what fell from the Hon'ble BABU SURENDRANATH BANERJEE with reference to the Excise Revenue, it is impossible for the Government at this moment to give any guarantee as to the abolition of the outstill system, or as to its policy at this or any future time. I can only repeat that its efforts have been steadily directed towards reducing consumption, and at the same time increasing the revenue, and I have already pointed out in the explanatory note that during 1892-93, the last year of which the Excise administration has been reviewed, this object has been effected under four of the largest heads of revenue. In the debit and credit account which the hon'ble member drew between the cost of the courts of law and the receipts from stamps, he altogether omitted, no doubt by inadvertence, to take into consideration the fact that under the head of Stamps there is a considerable expenditure aggregating over 5 lakhs in the cost of providing stamps.

"Turning next to the hon'ble member's remarks upon Education, it is superfluous criticism to say that the province of Bengal, as regards the expenditure upon Education, cannot be compared with Natal or British Guiana, or any other outlying Colonies of the British Crown. Every member of this Council must be well aware that the comparison is impossible, and that the conditions of administration in Bengal and in the Colonies must differ in almost every respect. Moreover, the hon'ble member should always remember that the whole of the expenditure upon Education is not represented in this Budget, for very large sums are contributed by District Boards and Municipalities, which appear in their own Budgets, and are not dealt with in the Budget now before Council.

"The hon'ble member also criticised severely the diversion, as he was pleased to call it, of the Public Works Cess from its legitimate object, that is to say, the improvement of the country and the guarding against famines; but I have already pointed out that against the apparent balance of 17½ lakhs must be

[*Mr. Bourdillon; the President.*]

set about 8 lakhs to be spent on minor irrigation projects, 7½ lakhs on embankments, and 7 lakhs upon roads, besides a very large proportion out of the 5½ lakhs given to District Board in the shape of contributions, which will be utilised in the construction of works of the same character. Surely the improvement of communications, the maintenance of protective embankments, and the execution of well-considered irrigation projects deserve to be recognised as steps for the protection of the country, so far as it can be protected, against the invasion of famine.

"The hon'ble member who last spoke has criticised the Budget at considerable length, but there is one cardinal defect, which characterises his speech, namely, that his criticisms have been merely destructive; he attacked the receipts under several heads, and the expenditure under others; but he has not ventured to suggest how, by decreasing taxation, we shall at the same time be in a position to spend larger sums of money on objects which he considers specially deserving of such expenditure."

The Hon'ble THE PRESIDENT said:—"I think we all sympathise in the wish which has formed the leading string of thought which ran through the speech of the Hon'ble BABU SURENDRANATH BANERJEE, and which is the wish that it was possible to have larger funds to expend upon the many objects of usefulness and improvement of the administration which presented themselves to the Government of this great Province, and to those who are able to make suggestions to the Government whenever they look into the details shown in the Provincial accounts. But as the Hon'ble the Financial Secretary has just remarked, we are bound by the limits of our income, and it is almost an idle pleasure to suggest what we should be glad to do if we had more money to spare. No doubt from some points of view it would be satisfactory to be able to raise the pay both of the ministerial and menial establishments of Government. There are many things which might be said on this subject, and perhaps it may be suggested with regard to some of them that we should not do much good to the country if we were to raise the salaries of the superior classes of the Government employés. It is a great temptation to all of us to utter or to give way to such suggestions. It is very easy to be generous with other people's money, but what the Government has to do when such suggestions are made is to resist them to the utmost, as long as it can do so with any sense of justice. What

we have to consider is not whether they would like to raise the pay of the ministerial establishment, but whether private employers pay more, and if not, whether the Government would be justified in raising the market rate by giving more than private employers do give, or more than the men are willing to receive. As long as we have this exceedingly tight fit between revenue and expenditure, the Government is bound to exercise the strictest supervision over all temptations to increase expenditure. It is a great satisfaction that we have been able to justify ourselves on this occasion in accepting one proposal for increased expenditure which has been pressed upon us by the highest authority—a proposal which has been laid before the Government of India in accordance with a report by a Special Committee, the President of which was the Chief Secretary of our Government, and the principle of which has been accepted by the Government of India, namely, that we have been able to add three lakhs of rupees to the pay of the Subordinate Police establishment. We have raised the pay of the lowest police from Rs. 5 to Rs. 6, and we have raised the allowances and in some instances the pay of head-constables and sub-inspectors. We trust we have done a good deal to remedy the evils complained of owing to the shortcomings of the police, so far as they were due to the temptations which surrounded them, and which they were unable to resist. This was the chief item in which we have been able to indulge ourselves by being liberal; we were also able to meet the demand of the Government of India to assist them in their financial distress, which was so much greater than ours, by a contribution of three lakhs. That we could do so is chiefly due to a remarkable rise in the income last year, namely, a rise in the receipts from railways, which was an altogether unexpected windfall, and also to a moderate increase under Stamps and Excise.

"The hon'ble member compared the Budget of the United Kingdom with ours with some degree of regret that the comparison was unfavourable to us. To my mind this was a mistaken impression on his part, and if he understood better what the conditions of Imperial finance were, he would feel thankful that he is in Bengal and not in England. The only increase in the British Government's revenue for the year just closed is an increase in the receipts from the income-tax, which was due to an extra penny in the pound having been put on from the 1st of April last. It would be very easy to raise the rate of the income-tax here, but I do not think I should receive a hearty welcome from my hon'ble colleagues if I stood here on the part of the Government of India to propose such

[*The President; Mr. Bourdillon.*]

an increase. Then the hon'ble member speaks of the falling off in the English receipts from Customs and Excise in the United Kingdom, as affording ground for satisfaction, but that is mentioned in all the economic papers which I have seen as a proof of the general depression and general backwardness of trade, and largely to the distress and discomfort due to lock-outs and strikes, and the fall in the price of silver. It is our great good fortune that we have not been subject to such distress. The rise here in the Excise has been a very small one—hardly exceeding the ratio of the annual increase in the population, namely, one per cent. That increase has been looked upon with regret by the hon'ble member, but in England a decrease in the revenues from Customs and Excise was looked upon with universal regret as a proof of the poverty of the people, and the restrictions they were in consequence obliged to impose upon themselves. I venture to think there has been no year among the years I have studied in which the Provincial Revenues occupied so favourable a position as in the year before them. We have, as has already been pointed out, an increase in the revenues by about 10 lakhs over the receipts of 1892-93, and we have been able to spend that on most useful reforms in the Police, in Education and in the Courts of Law and other departmental administrative purposes, all of which I have no doubt will tend to the improvement of the general administration. We have also been able, without pinching ourselves, and without restricting any expenditure, to make this large contribution of three lakhs to the Government of India which, in no past year whose figures I have studied, the Bengal Government would have been able to do without very considerable distress.

"I think, therefore, I may congratulate you and the Province on the whole on the position we have been able to lay before you as regards the financial measures of the next year, and as to the receipts and expenditure of the Province of Bengal."

BENGAL MUNICIPAL ACT, III OF 1884, AMENDMENT BILL.

The Hon'ble MR. BOURDILLON also moved that the clauses of the Bill to amend Bengal Act III of 1884, as amended by the enlarged Select Committee, be further considered for settlement in the form recommended by the Select Committee.

The Motion was put and agreed to.

The Hon'ble MR. COLLIER moved that in section 15 of the Bill the words "or Vice-Chairman" be omitted. He said:—

"This section of the Bill had already been passed by the Council; but I believed that mistakes in drafting may be pointed out and corrected at any time. These words have only been left in this section by oversight; they refer to a provision previously in the Bill, but which has now been omitted by which the election of the Vice-Chairman was subject to the approval of the Government. As it is no longer so subject, the words 'or Vice-Chairman' are quite unnecessary."

The Motion was put and agreed to.

The Hon'ble MR. BOURDILLON moved that after section 15 of the Bill the following section be inserted:—

"After section 26, the following section shall be inserted:—

'26A. Notwithstanding anything contained in sections twenty-four, twenty-five and twenty-seven (A), the Chairman and Vice-Chairman of every municipality shall resign office at the first meeting of the Commissioners newly appointed and elected at which a quorum shall be present. The meeting shall thereupon proceed (*a*) to elect, or to request the Local Government to appoint, a Chairman, and (*b*) to elect a Vice-Chairman:

Provided that, if the municipality is in the second schedule of this Act, or if the meeting decides to request the Local Government to appoint a Chairman, the resignation of the Chairman shall not take effect until a new Chairman is appointed.'

He said:—

"The amendment which stands against my name has twice been laid before this Council, and a decision upon it has twice been postponed owing to the difficulty of selecting the most suitable form of expression, but since the last meeting of this Council, the wording of the amendment has been further considered by an informal Sub-Committee consisting of the Hon'ble MESSRS. AILEN and COLLIER, the Hon'ble BABU SURENDRANATH BANERJEE and myself, and we recommend the amendment in the form which it has now taken.

"Section 15 of the Bill provides that an outgoing body of Commissioners with their Chairman and Vice-Chairman shall carry on their duties until the first effectual meeting of the new body is held. The addition which I propose to make to section 15 of the Bill and to section 26 of the Act will declare that as soon as this meeting is formed the old Chairman and Vice-Chairman shall

resign, and the meeting shall then proceed to elect a Vice-Chairman under section 25 of the Act, and either to elect a Chairman under section 23, or under the same section to request the Local Government to appoint one. The case of municipalities which are in the second schedule of the Act will be covered by the proviso which follows the new section.

"When this Council last met, a member enquired what was to be done in the event of there being an equality of votes at the meeting, and it has since been asked who is to take the Chair at this meeting, whether the President shall have a casting vote, and whether a member shall be entitled to vote for himself. These are matters which, in the opinion of Government, need not be dealt with by legal enactment. Under section 90 of the present Bill, it is proposed to give to municipalities power to make rules, among other things, for the conduct of business: these rules require the sanction of the Local Government, and when they are prepared, the opportunity will be taken to lay down definite and uniform rules on these and other points on which doubt still prevails. I therefore ask the Council to accept the amendment as it stands."

The Motion was put and agreed to.

The Hon'ble MR. BOURDILLON also moved that in section 16 of the Bill, for the number "26" the number and letter "26A" and for the number and letter "26A" the number and letter "26B" be substituted.

The Motion was put and agreed to.

The Hon'ble MR. GHOSE said:—"At the last meeting of the Council, I asked permission to allow the amendment which I moved in section 22 of the Bill to stand over till to-day, so that I may have time to consider the course I should persue, having regard to the acceptance by the Government of the amendment moved by the hon'ble member for the Corporation. Having given the matter my most serious consideration, I have come to the conclusion that while I must abandon the first portion of my proposed amendment, it will be my duty to lay before the Council the second portion, which proceeds on altogether different lines, and which proposes to confer a veto on a majority of not less than two-thirds of the entire body of the rate-payers. The Council will remember that these sanitary sections formed no part of the original Bill, which was referred to the first Select Committee. They were the outcome of the Belvedere Conference,

and were embodied in the Bill as amended by that Select Committee, though they carefully abstained from expressing any opinion. Subsequently, when the Bill was referred to the enlarged Select Committee, no portion of the Bill was more anxiously considered than these sections, the result being that they were considerably modified, and to a large extent recast.

"I believe the hon'ble member in charge of the Bill will bear me out that as regards sections 37A to 37J we were unanimous; but it was only when we came to section 37K, which proposes to confer compulsory powers upon the Government, that any serious difference of opinion arose. There was no difference of opinion as regards the character, the utility or the importance of the works contemplated under these sections: we were as keenly alive to that part of the question as the majority of the Committee. Nor do I believe that public opinion has lagged behind: so far I have not come across any newspaper or any individual so foolish or so fanatical as to deny the advantages of a proper system of drainage and a supply of pure drinking-water. At the same time, there has been considerable opposition on the part of the public to compulsory legislation. That opposition was entirely based on the question of ways and means which, it is feared, might not always be considered by the executive Government with sufficient regard for the means and resources of those who will have to bear the expenses.

"More than twenty years ago it was declared by so high an authority as the late Lord Mayo that taxation had reached its utmost limits in this country, and since then we have had so many additional turns of the screw that the people are afraid that if the operation of these sections is left to the discretion of the Government, the capacity of the rate-payer to bear additional burdens may receive but slight consideration, and poor and small municipalities might be forced to embark on schemes which are far too expensive for them. It is possible to pay too high a price for even the blessing of pure water. It may be a poor mercy—if I may quote the happy phrase of the Hon'ble the Legal Remembrancer—to give them an elaborate system of water-works if it involves crushing taxation, such as may appreciably diminish their power of procuring solid food, and compel them to rely more or less on such nourishment as may be derived from pure water. I had the advantage of talking this matter over privately with the hon'ble member in charge of the Bill, and I was glad to find that he deprecates as much as I do any great and intolerable increase of taxation, even in the name of sanitation; and I also gathered from what he said

that the Government may possibly see its way to accept my amendment in the case of a single or isolated municipality, but that it was considered that in the case of a group or a series of riparian municipalities which are expected to join with each other in the carrying out of such schemes, it would be undesirable to allow any one of them by its obstinacy to paralyse the action of all the others. I admit that there is great force in that argument; and having regard to the fact that the Government have accepted the amendment of my hon'ble friend the Member for the Corporation, I am unwilling to ask the Government to make any further concessions as far as that case is concerned. I am, therefore, prepared to restrict the operation of my amendment to the case of an isolated municipality alone. But before the Government or hon'ble members generally make up their minds, I desire to read a short extract from a communication with which I have been favoured by my learned friend Mr. Graham, who also happens to be a Municipal Commissioner of Serampore. He says:—

'Of course the chief objection to a joint scheme is the taxation it will involve. The suggested taxation on Serampore has been over Rs. 20,000, or equivalent to an extra 50 to 55 per cent. on our taxes, which many find a difficulty in paying now. The incidence of taxation may be unfair, but in the long run you must tax on the numbers, and it would be grossly unfair to throw the whole burden on comparatively few rate-payers, as would be the case the moment the level was raised. Owing to the scattered nature of this Municipality—and I take it all municipalities in Bengal—the sums collected have to be spent on very large unproductive areas, and a water-works scheme is really only possible in localities where the density of population will provide the requisite money at a fair cost. With large unproductive areas it is almost impossible to raise the money fairly to provide for long stretches of pipes and numberless taps. Of course the same applies to roads, but a road is a very cheap thing compared to a water-supply.'

"These are the views not of ignorant native rate-payers, but of a cultured English gentleman, who from his local knowledge, is satisfied that such a scheme would be disastrous to the rate-payers of Serampore. These are considerations of such a cogent character that I do not think any Government in the world could be indifferent to them. I fully believe that if the Government were convinced that the results would be such as Mr. Graham anticipates, it would hesitate long before enforcing such a scheme. But, Sir, the danger lies in this. The Government is far removed from the people; its views are mostly formed on the representations of the District Officers, who are its eyes and its hands, and the younger, the more active and the more zealous those officers are, the greater the danger. To them the improvement of a municipality within their district

is an object of paramount importance, while the ability of the tax-payer to bear additional taxation may receive little or no consideration.

"These are the grounds on which we felt compelled to differ from the conclusions of the majority of the Select Committee. We felt that when such matters came up before the Government, it would naturally place the greatest reliance upon the recommendations of its own officers, and any objection on the part of the rate-payers would be attributed partly to the stupid conservatism of an ignorant people, and partly to the natural reluctance of all men to pay any taxes whatever.

"We had one of two courses open to us: either to move that section 37K be omitted, or to introduce into it such safeguards as in our humble judgment may provide against the dangers we apprehend. We have adopted the latter and the more moderate course, and we could not do less without surrendering our deliberate convictions. I am glad to say that the Government has done much to allay popular apprehension and alarm by accepting the amendment of my hon'ble friend, the Member for the Corporation. I now ask you to go one step further, for, unless you accept this proviso, there will still be many cases in which no protection will be afforded by the amendment which has been accepted. Even in the case of a municipality to which the franchise has already been extended, one-third of the Commissioners are appointed by the Government on the nomination of the district officer, and speaking from personal knowledge, I have no hesitation in saying that it would be idle and futile to expect that any of those nominated Commissioners will ever venture to vote against any proposal made by the very officer to whose recommendation they owe their appointment; so that, unless you have the solid vote of the whole body of elected Commissioners, you will never get the requisite majority of two-thirds. In the case of illness or absence of any one of the elected Commissioners, or any difference of opinion on the part of one of them, the case will immediately go out of the provisions of the amendment of my hon'ble friend. Then, again, there is a large number of municipalities to which the franchise has not been extended, where all the Commissioners are appointed by Government, and the rate-payers have not a single elected representative. These are just the cases where my proviso will afford some protection. In this connection, I desire to remind the hon'ble member in charge of the Bill of the words used by him when replying to me on another occasion:—

'As far as my experience goes, there is very little hope that the majority of the rate-payers of a municipality will ever combine to submit a petition of any kind.

"If that view, which was then endorsed by several hon'ble members who took part in the debate, be correct, then no possible objection can be urged against my amendment, for the proviso would either be inoperative, or it would be only in very exceptional cases of great and general hardship that such a large number as two-thirds of the whole body of the rate-payers will ever be able to combine to petition the Government. Besides, it should be remembered that this is the first time that these sanitary sections are being enacted, and it is not fair or just to legislate on the assumption that the attitude of the people must necessarily be one of obstinate opposition or unreasonable obstruction. I therefore ask you to give them a voice in the administration of their own local affairs. If after giving them a fair trial you find them utterly unreasonable and wholly unworthy of the confidence reposed in them, it will never be too late to amend the law.' Should the results unfortunately justify a demand for further compulsory powers, no reasonable voice would be raised against such a demand. But, Sir, I do not anticipate that such a contingency will arise. I rely on the good sense and moderation of my countrymen, and I have faith in the gradual development of municipal institutions under the enlightened guidance of the Government, although I am not prepared to go so far as to place the popular voice upon such a high and lofty pedestal, or to claim for it such superlative authority, as was done by the hon'ble Member for the Corporation the other day. I am content to rest my case on a far more humble and prosaic ground, namely, that those who are expected to bear the expense as well as to enjoy the prospective benefits of a particular sanitary proposal should have an opportunity of deciding by an overwhelming majority of two-thirds of their whole number, whether such a scheme is suited to their means, or is utterly beyond their resources. Surely that is not too much to ask.

"Sir, you are about to inaugurate great and important measures of sanitary reform which, if successful, will for ever be honourably associated with the present administration, and I venture to think that a little confidence in the people at the beginning will not be thrown away. They are sure to reciprocate the sentiment and to feel grateful for the concession. Confidence will beget confidence, and you will have done much to advance the cause of sanitation by placing it on a popular basis and by dissociating it from all ideas of

compulsion and coercion. You will succeed in completely re-assuring the public mind; you will satisfy the country that the Government has no intention of retracing its steps as regards Local Self-Government, and you will convince it beyond all doubt that so far from desiring to narrow or to circumscribe the privileges of the people, you are sincerely anxious, as opportunity may arise and as occasion may serve, gradually and cautiously, it may be, but steadily to widen the sphere and to enlarge the bounds of popular liberties.

"With these remarks, I have the honour to move that in section 22 of the Bill, after sub-section (*3*) of section 37K, the following proviso be added:—

'Provided further that in the case of a municipality not required to act conjointly with any other municipality or local authority if within two months from the date of the publication of the particulars of any such scheme in the *Calcutta Gazette*, a petition is presented to the Local Government by a majority of not less than two-thirds of the registered rate-payers of a municipality objecting to the compulsory introduction of such scheme into such municipality, the Commissioners thereof shall not be compelled to carry out such scheme.'

The Hon'ble MR. BOURDILLON said:—"I take leave to doubt, Sir, whether it would have been possible to find a better exponent of the views expressed in this amendment than the hon'ble member who has just spoken, and though I am unable to accept his arguments or to advise the Council to do so, I congratulate him upon the force and the lucidity with which they have been set forth.

"The effect of the amendment is to provide an alternative system for blocking proposals for sanitation and drainage, and for representing the popular voice on proposals made by the Government. The only question seems to be whether it is necessary to supply this alternative. In the first place, to allow two-thirds of the rate-payers of a municipality a voice in a matter like this is to go altogether beyond the provisions of the Municipal Act. We hear frequently and from many quarters that the privilege of the franchise is a boon which is greatly valued, and the elections which have taken place within the last few months have raised an interest in many districts in Bengal, which has not at all been approached in the case of any previous elections, and it may be presumed that the Commissioners who have been elected have the fullest confidence of the electors, and that they are entitled to speak with authority on behalf of the persons whom they represent. The elective system is in force in five out of every six municipalities in Bengal, and wherever it is in force two-thirds of the Commissioners are elected by the rate-payers.

[*Mr. Bourdillon; Mr. Ghose; the President.*]

Why should the elected representatives of the people be ignored? Why should two-thirds of the rate-payers be entitled to throw over the Commissioners and decide for themselves upon a matter which is eminently one for the decision of those who are elected by the rate-payers? The hon'ble mover of the amendment has assumed as a matter of course that in a matter of this kind the elected Commissioners will vote solid, and that the nominated Commissioners will vote against them; and he has urged that therefore the accidental absence of one elected Commissioner might at any time prove disastrous. But the Government are not at all prepared to admit that these two classes will always be divided by a line of this sort, and at any rate the argument is double-edged. Moreover, as the hon'ble member has already admitted, petitions of the rate-payers are matters of little or no account, and they remind me always of Lord Palmerston's definition of a deputation as a noun of multitude implying numbers but signifying nothing. If, as the hon'ble member put it, it will be so difficult to obtain a combined petition of two-thirds of the rate-payers, what will be the advantage of putting into the statute book a provision which will practically remain inoperative.

"Nevertheless, it is only fair to the mover of the amendment to admit that there is one class of cases in which I think it would be possible to accept the hon'ble member's proposal, namely, that of a municipality in which all the members are appointed by the Government. In these places, it is conceivable that the rate-payers would not be so thoroughly represented as they would be in a municipality where the elective principle is in vogue, and I believe that the Local Government would not be unwilling to accept the amendment if it were guarded by the limitation that it should be restricted to municipalities acting singly, and should apply only to municipalities in Schedule I, in which none of the Commissioners are elected, but all are appointed by the Government. If the hon'ble member will limit his amendment in this way, I shall not be disposed myself to accept it."

The Hon'ble MR. GHOSE said:—"If that is the final opinion of the Government, I shall thankfully accept it."

The Hon'ble THE PRESIDENT said:—"I am glad the hon'ble mover of the amendment accepts the proposal, and I am glad to associate myself with the hon'ble member in charge of the Bill, and say that the Government is prepared

to go this length, namely, that the proviso shall only apply to municipalities in the first schedule of the Act. The exact wording of the amendment may stand over to the next meeting."

The Hon'ble BABU SURENDRANATH BANERJEE moved that the following further proviso be added to section 76 of the existing Act:—

"Provided also that the control exercised by the Commissioner of the Division under the terms of this section shall be restricted to the heads of the estimate, and shall not extend to the details thereof."

He said—

"Under the existing law, Commissioners of Divisions enjoy much greater power of control over the Budget than they did under the Act of 1876. Under that Act he could sanction the Budget, if he accepted the figures of the Budget, but he could not alter or modify it. The Local Government alone had those powers entrusted to it. Under the Act of 1884, these powers have been delegated to the Commissioner of the Division. My amendment does not seek to deprive the Commissioner of his powers over the Budget, but it proposes to curtail them, to restrict them, and confine their exercise to the principal heads of the Budget. And, Sir, I beg leave to say that I press this amendment as much for the sake of the municipalities as for the sake of the executive officers of Government who control these municipalities, for one of the dangers of Local Self-Government—in my opinion the chief danger—arises from the friction between the executive officers of the Government and the municipalities consequent upon the interference of the Commissioner of the Division with the minutest details of municipal administration. My amendment will minimise this danger; it will relieve Divisional Commissioners of a large part of their municipal work, and mark a distinct stage in advance in the history of local self-government, by enlarging the powers of Municipal Commissioners, and by adding to their efficiency, by adding to their responsibilities.

"I have referred to the friction between Municipalities and the executive officers of the Government. It is somewhat of a serious allegation to make, but I make it with a full sense of the responsibility which belongs to my position, as a member of this Council. I am prepared to prove it to demonstration. Let me somewhat enlarge upon the matter. The Budget is presented in February or March. With the submission of the Budget there begin the

demand for explanations by the Divisional Commissioner and the submission of explanations by the Municipal Commissioners. Three or four months expire before the budget is finally sanctioned, and even then the troubles of the Commissioners are not at an end; for while the correspondence was going on in regard to the Budget, the work of the municipality had to be continued, expenses had to be incurred, and it might be in respect of some of the items which afterwards come to be disallowed, and with regard to such unsanctioned items, there is a further demand for explanation. Thus from year's end to year's end there goes on this merry-go-round of explanations to the great detriment of real and useful work. For let it be remembered that the Chairmen of our municipalities are for the most part non-official gentlemen, who can devote only a portion of their time to the concerns of the municipality; but if a good portion of that time is thus taken up, then it is very obvious that their opportunities of doing useful work are necessarily restricted.

"Let me illustrate the manner in which Divisional Commissioners exercise this power of control by reference to one or two concrete instances; and here I necessarily fall back upon my own personal experiences. In the North Barrackpore Municipality we provided in the Budget some time ago for two sircars—one to collect the latrine-rate and the other the house-rate. The Divisional Commissioner objected to the sircar for collecting the latrine-rate. We protested—we pointed out that the collections would suffer—we went even so far as to say that we could not hold ourselves responsible for the satisfactory collection of the latrine-rate if the sircar was disallowed, but all in vain: the Commissioner of the Division was inexorable, and the sircar was disallowed. But the most curious part of the affair has yet to be told. As we had anticipated, the collections fell off, and we were called upon to explain as if we could in any way be held responsible for the shortness of the collections. It is only due to Mr. Westmacott, who succeeded Mr. Smith as Commissioner of the Division, to state that he has allowed that item to stand. But the fact only serves to disclose the utter absence of all principle, the want of anything like a definite rule as to the way in which the Divisional Commissioners are to exercise their discretion. It is personal government, pure and simple, tempered only by the exercise of personal discretion. I will give another instance. We had a bill muharir, whose duty it was to write out 4,000 or 5,000 bills, some of which have to be written out in triplicate form. The Divisional Commissioner disallowed the bill muharrir who had been on the establishment ever since the

creation of the Municipality. We pointed out that his services were very necessary, that five sircars could not be expected to write out five thousand bills, and do their legitimate work besides, but all in vain. The *fiat* went forth that the sircars must write out their own bills.

"Now I ask, is it right and fair to hold Municipal Commissioners responsible for the collections or for the general efficiency of municipal work, if they are to be interfered with, if their decisions are to be overridden in these essentially paltry matters of detail? It will be admitted on all hands that local gentlemen with local knowledge, responsible to their constituents and to the Government, are the best judges, and that Commissioners of Divisions, residing at a distance from the head-quarters of municipalities and but imperfectly acquainted with local needs and wants, should not sit in judgment upon the decisions of Municipal Commissioners in these matters.

"It is, however, chiefly in reference to educational matters that this power of interference is most sedulously exerted. The hon'ble member in charge of the Bill gave certain figures in reply to a question put by me, showing the grant made by municipalities to English schools for the last three or four years. The grant in 1888-89 to English schools was Rs. 48,360; in 1889-90 it was Rs. 47,121; in 1890-91 it was Rs. 51,446; in 1891-92 it was Rs. 53,000, but in 1892-93 the grant fell to Rs. 31,480. How are we to account for this sudden fall? I am in possession of facts which accentuate the conclusions to be derived from the Hon'ble MR. BOURDILLON'S figures. We have two schools in the North Barrackpore Municipality, each of which used to receive a monthly grant of Rs. 20 from the municipality. The Commissioner cut down the grant to Rs. 10 a month. We protested, but in vain. Then came another turn of the screw. The grant was disallowed altogether! We protested—we pointed out that these were essentially vernacular schools with just a little English taught in the higher forms. We could with difficulty induce Mr. Westmacott to restore the grant to one of these schools. I do not know what justification there is for this raid against education, and against English education in particular. Education and sanitation must go hand in hand. The one must minister to the other. Sanitation is impossible of attainment without education. You may flood a district with the purest water and bestow upon it the most approved system of drainage, but all to no purpose. If the habits of the people are dirty, if their sanitary ideal is low, the money will have been spent in vain. It is pleasing to

contrast this discouragement of English education by the Bengal Government with the encouragement of English education by the Government of Madras. Lord Connemara, addressing a Municipality in the Madras Presidency, some years ago, thus observed:—

'Local self-government was a success throughout the Presidency, and as education facilitated the working of the municipalities, so he was quite sure municipalities would do everything they could to promote education.'

"Language of the same kind was used by Sir James Lyall, Lieutenant-Governor of the Panjab. But I rely not merely on considerations of practical and administrative convenience. I rest my case on those basal principles of Local Self-Government which were enunciated by the great founders of the system. The Government of India in a letter dated the 10th of October, 1881, addressed to the Government of Bengal, thus observed:—

'It is hopeless to expect any real development of Local Self-Government if local bodies were subject to check and interference in matters of detail.'

"And then in the great Resolution of the 10th May, 1882, it was laid down:—

'The non-official members must be led to feel that real power is placed in their hands, and that they have real responsibilities to discharge.'

"The principle was accepted by Sir Ashley Eden in some of the Resolutions which he issued. I invite this Council to adopt this principle by accepting my amendment. It would be a generous concession. It would broaden the foundations of Local Self-Government and render memorable the Municipal Amendment Bill of 1894, by associating it with a progressive measure which would evoke deep gratitude from one end of the country to the other. The system of Local Self-Government has now been in existence for more than ten years. For ten years the municipalities have been tried, and I venture to affirm that they have not been found wanting. Government after Government have borne uniform testimony to the satisfactory working of our municipalities. The history of municipal laws in Bengal is the history of progressive legislation. The Act of 1876 was a distinct advance upon the earlier Municipal Act. The Act of 1884 embodies the principle of Local Self-Government and is the charter of our municipal rights. The Council and the Government would be acting in accordance with their best traditions, if, on this the occasion of the revision of the Municipal Act, they were to show their appreciation of the good work

done by the municipalities by a tangible concession which would operate as an incentive to further efforts in a direction where such efforts so far have been attended with unmixed blessing to the community."

The Hon'ble MR. BOURDILLON said:—"I am compelled to differ entirely from the hon'ble member who has just spoken, and I must ask this Council in the most emphatic manner to reject his amendment and to leave the law as it stands at present.

"The object of the amendment is to take away from the Commissioner of the Division the power of control over details in the Municipal Budget. This is a proposal which does not commend itself to my judgment on any grounds whatever, and I hope to be able to show in a few words that it is impolitic and unpractical, and that even if carried, it would be ineffectual to secure the object for which it is framed.

"As the law stands at present, the Budget Estimate of a municipality, when it has been prepared to the satisfaction of the Commissioners, is forwarded under section 74 of the Act to the Magistrate of the District. That officer may either forward it as it stands to the Commissioner of the Division, or may return it for revision to the Municipal Commissioners: if he adopts the latter course, the Municipal Commissioners at a meeting must take his criticisms into consideration, and either adopt or reject them; in either case the estimates are then forwarded to the Commissioner of the Division for his scrutiny, and he can either sanction the estimate as it stands, or can direct the Municipal Commissioners to alter it, and sanction it when so altered. By a provision imported by section 30 of the present Bill, the Commissioner of the Division must always give the Municipal Commissioners an opportunity of revising their estimate by the light of his remarks before he passes final orders upon it.

"These Regulations seem to me to be eminently reasonable and fair. I do not suppose that the most advanced advocates of municipal independence in Bengal would have the hardihood to assert that Municipal Commissioners everywhere are fit to be freed from all financial control, and since control is to be exercised, it is natural, reasonable, and in accordance with commonsense, that it should be exercised by the local officers in the very considerate, not to say deferential, manner provided by the law.

[*Mr. Bourdillon.*]

"The proposal now is, that these simple arrangements should be set aside, and that the Commissioner should have power only to interfere with the main heads of the Budget, and should not be allowed to concern himself with details. The mover of the amendment does not say what he proposes to consider main heads and what details. I assume, however, that he intends to follow the headings of the form of Budget Estimate for Municipalities prescribed by the orders of Government of the 7th February, 1891. A glance at these forms at pages 22-23 of the rules will show members that the main heads of the Budget on the Expenditure side are the following:—Establishment, Public Safety, Public Health, Public Instruction, Public Convenience, Miscellaneous and Debt; and if my understanding is right, the mover of the amendment proposes that the powers of control of the Commissioner of the Division shall be limited merely to saying what proportion of the total expenditure shall be incurred under each of these seven heads. I cannot believe that the Council will ever agree to a proposal so unreasonable. Take, for instance, the heading of Public Health: the sums expended on the sub-heads falling under this category amounted in 1892-93 to Rs. 14,73,099, or more than 46 per cent. of the whole municipal expenditure of the year. Is the chief controlling authority of the Division to have no word in the distribution of half the expenditure in each municipality? Is he again to have no control over the distribution of expenditure upon the various branches under the general head of Education, nor over the details of Establishment, in both of which directions municipal bodies frequently show an extraordinary tendency to extravagance? I do not doubt for a moment what the decision of this Council will be.

"And why are we asked to minimise the control of the Commissioner in this way? Merely because it is the unfortunate experience of the hon'ble member, that the Commissioner of the Division has a habit of asking unpleasant questions and interfering too much in details. Sir, this plea appears to me to supply a complete answer to the contentions of my hon'ble friend. It is not to be supposed that the Commissioner of the Division, in these days of high pressure and overwork, criticises the details of a Municipal Budget for his amusement, or for the mere pleasure of making himself unpleasant: the Head of an administrative Division has no leisure either for trifling or for teasing, even if he had the inclination for both, and the fact that the Municipal Commissioners on whose behalf the hon'ble member speaks have had their Budgets closely

criticised, seems to me to show that they required detailed examination, and that Government can by no means afford to exempt such estimates from that scrutiny.

"In the next place, the amendment, as it stands, must be ineffectual. For, in the first place, the heads of the Budget are fixed by the Lieutenant-Governor by executive order after consultation with the Accountant-General, and they are liable to be changed at any moment, so that by a simple notification the whole scheme of the Budget might be altered, and the entire object of the amendment evaded.

"Lastly, the hon'ble member seems to have overlooked the provisions of the section previous to that which he proposes to amend. Section 75 gives the Magistrate of the District the fullest power to criticise the estimates and return them to the Commissioners for consideration. The mover of the amendment, to be plain, objects to local officers meddling with municipal estimates, yet he has raised no objection to this process being carried out by the Magistrate: he would not allow the Commissioner of the Division to look into details, but has not noticed that the Magistrate can always do so. Moreover, if his amendment is carried, and the Commissioner is debarred from looking into details, how is he to decide matters in dispute between the Magistrate and the Commissioners?

"It seems to me, Sir, then, that the amendment is unreasonable from beginning to end. I strongly object to the principle which underlies it, namely, that of freeing municipalities from effective financial control, and it seems to me further that the measures proposed for this unacceptable purpose are unpractical and crude to the last degree."

The Hon'ble BABU SURENDRANATH BANERJEE in reply said:—"I am sorry that my hon'ble friend does not see his way to accept this amendment, the object of which is not to relieve the Commissioner of the Division of all kinds of control because it distinctly contemplates that the control will be confined to the major heads of the Budget. I do not see how the amendment will be ineffectual, as has been just stated. No doubt the Government may change the major heads of the Budget, but still the control will be confined to those heads. All that we are anxious to secure is, that whatever control the Commissioner of the Division may exercise should extend to the major heads of the Budget, and

[*Babu Surendranath Banerjee; the President; Mr. Collier.*]

not to the details. The amendment carries with it a large body of public feeling. It has again and again been considered by various public bodies in conference assembled, and there is a unanimous feeling that the time has come when a further extension of municipal rights is desirable, and that the Commissioner of the Division should be relieved of a part at least of the control he has hitherto exercised. I have no objection if the Government were to go back to the provisions of the Act of 1876, in which whatever there was, was exercised by the Local Government."

The Hon'ble THE PRESIDENT said:—"I confess that I have seldom heard a proposal, the result of which would be so revolutionary, which was supported by arguments which seem to be so little convincing. Really all that the hon'ble mover of the amendment has brought forward is a statement regarding two cases in which the Budget of the North Barrackpore Municipality was interfered with by the Commissioner of the Division. I dare say we all remember the story of the painter and the lion. We have heard what the Chairman of the Municipality thinks of the Commissioner, but unfortunately we have not got the Commissioner here to say what he thinks of the Chairman. But even if we take the action of the Commissioner as unreasonable in the cases to which the hon'ble member has referred, surely we are not going to upset an established practice and take away from all officers the power of doing right, because a single officer has now and then made a mistake. Though I shall be glad to accept amendments which the hon'ble member may bring forward, which seem to me to be in the way of improvement, I am sorry I do not see my way to accept this proposal."

The Motion was put and negatived.

The Hon'ble MR. COLLIER moved that for the two first lines of section 31 of the Bill the following be substituted:—

"For section 82, the following shall be substituted:—

'The Commissioners shall keep such registers, use such forms and submit such returns as the Local Government may, from time to time, prescribe.

'The municipal accounts shall be audited each year in such manner as the Local Government may direct.'"

He said:—

"This is a very simple amendment, but I think it very necessary. The section as it stands in the Act at present provides that 'the municipal

accounts shall be kept in such form and shall be audited each year in such manner as the Local Government shall direct.' Therefore the Government has only power to prescribe forms for accounts. The object of the amendment is to give power not only to prescribe forms for accounts, but also all registers and returns."

The Motion was put and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE moved that in the first paragraph of section 85 of the existing Act, the words "or both" be substituted for "but not both", and that the following further proviso be added to the section :—

"Provided that both the taxes shall not be in force at the same time in the same ward."

He said :—

"The existing law provides that both the tax upon persons and the tax upon holdings cannot be in force at one and the same time in one and the same municipality. If the tax upon persons is in force in any municipality, the tax according to the annual value of the holding shall not be in operation. The object of my amendment is to leave this question, as to whether both forms of taxation may prevail at one and the same time or not, to the discretion of the Municipal Commissioners, subject to the proviso that both taxes shall not prevail in the same ward at the same time. In by far the greater number of municipalities, the tax upon persons prevails. In round numbers there are about 150 municipalities, and in about 110 the tax upon persons is in force, and where that form of taxation obtains, it strikes me that the well-to-do section of the community escape their legitimate share of municipal taxation. In every municipality, however poor it may be, there is a section of the people who are rich and dwell in fine houses, and they generally congregate together. Now the highest tax leviable upon any one holding in a municipality where the tax upon persons prevails is Rs. 84 a year; a person may live in a palatial dwelling, he may have a whole village included in his dwelling-house, but if it is one holding he pays Rs. 84 and no more. This is not fair to him, or to the municipality or to the poorer classes of the rate-payers. The object of the amendment is to rectify this anomaly. It will also have the effect of adding to the municipal revenues, not indeed by imposing a fresh burden on any section of the community, but by remedying an irregularity in the incidence

of municipal taxation. I find that this amendment was actually embodied in one of the Bills drafted by the Select Committee. Section 27 of the Bill issued in July, 1892, runs as follows:—

'27. In section 85, in the first paragraph, for the words "but not both" the words "or both" shall be substituted. At the end of the same section, the following paragraph shall be added:—

Amendment of section 85.

'Provided also that both taxes shall not be levied in the same ward; and the Commissioners shall determine which tax shall be levied in each ward.'

"With these remarks, I beg to move this amendment."

The Hon'ble MR. BOURDILLON said:—"As the hon'ble member has mentioned, this proposal is not a new one, and it has been discussed several times. The first draft of the Bill contained this provision, the only difference being that the Bill provided that both forms of taxation should not be imposed in respect of one and the same holding. Several opinions were received on that proposal, but the general opinion was that it was a dangerous power to confer upon Commissioners. The Select Committee which sat afterwards were divided in opinion, and as there was a small majority against the proposal, it was not embodied in the Bill prepared by them. But from the statement of the hon'ble mover of the amendment, it seems to me that the possibility of allowing both forms of taxation—the tax on holdings and the tax upon persons—in the same municipality should be admitted, and any apprehensions which may be felt by hon'ble members as to abuse of the power and the difficulty of assessing and collecting both rates fairly may be left to be settled by the good sense of the Commissioners themselves, and by the regulations which they may propose in that behalf. Therefore, speaking for myself, I shall voto in favour of this amendment."

The Hon'ble MR. COLLIER said:—"It appears to me that the hon'ble mover of this amendment has failed to recognize the actual nature of the tax on persons, or he should have seen that his proposal is, for arithmetical reasons, an impossible one. The fallacy on which the amendment is based is the assumption that the tax on persons is a kind of rate, which could be levied on *à priori* principles, on a single rate-payer or in a single street, or in a single ward of a municipality. But the tax in question is obviously not a rate. Its principle is simply that of an apportionment, that is to say that you must first fix the

amount of tax to be raised and then apportion it amongst the rate-payers according to their circumstances and property. If you do not know the amount intended to be raised, you cannot assess any one.

"Now, the only kind of apportionment of the tax on persons provided for by section 85, is a general apportionment on all persons occupying holdings throughout the municipality. The additions to the section proposed by the hon'ble member provide that one or more wards may be excepted from this general apportionment and taxed on another system. But it is clear that if we except one or more wards from a general apportionment, the apportionment breaks down, and the calculation becomes all wrong.

"The hon'ble member might possibly urge that to hold that section 85, as proposed to be amended, only authorizes a general apportionment, is to interpret that section in too literal a manner. He might say that if we take a broad view of the section as proposed to be amended, the difficulty referred to disappears. We may assume—he might urge—that the apportionment is to be confined to those wards in which the tax on persons is to be levied.

"Now, I do not think this contention would be sound, as the language of section 85 seems to clearly imply that it only authorizes a general apportionment. But for argument's sake let us accept this contention. Well the difficulty which now confronts us is that we cannot apply the principle of apportionment to certain wards only, as we do not know what we have to apportion. The section gives no power of fixing beforehand the amount of taxation to be raised in each ward, or in all the wards in which the tax on persons is to be levied, and until this is fixed, the principle of apportionment cannot be applied. The principle of apportionment gives you no assistance in determining what amount of tax a particular ward ought to pay. It merely enables you to apportion the tax after the amount is fixed. You can tax a whole municipality on the principle of apportionment, because you know beforehand what income you want to raise. You cannot tax one or more wards on that principle unless you have power to fix what such wards have to pay.

"There are two ways in which the section might be amended so as to carry out what is evidently the intention of the hon'ble member. One way is as follows:—You must provide that the Commissioners shall first fix the total amount of taxation to be raised under this section. Next, that they shall then proceed to apportion such amount among the different wards. Finally, that

they shall then decide in the case of each ward whether the amount fixed for it is to be raised by a rate on holdings or according to the principle of apportionment, that is to say, by the tax on persons. An obvious objection to such a proposal would be that to confer on the Commissioners the power of deciding what proportion of the tax each ward should pay would be to confer a power of perfectly arbitrary taxation. The other way of amending the section would be as follows:—If both taxes are to be raised in the same municipality, the section must provide that the Commissioners shall first decide the total amount of taxation to be raised. They must then decide in which wards the rate on holdings is to be in force, and estimate how much it will yield. They must then proceed to raise the required balance in the remaining wards on the principle of apportionment. Both these modes of proceeding would be logical. But the proposal before us is not. It is simply a proposal to levy a tax in certain wards of a municipality on the principle of apportionment without any suggestion as to how the amount to be apportioned is to be fixed. It is like a proposal to apply the principle of the lever without a fulcrum, and is clearly impossible.

"Apart from these considerations, any proposal to have two different kinds of taxes in force, side by side, in the same municipality is open to grave objections. With your permission, Sir, I will read an extract referring to this point from the report which I wrote on the original draft Bill (Extract read).

"This appears to me to be a most extraordinary suggestion. If carefully examined, I think it will be found to be irrational and impracticable. Even if it could be carried out in practice, it would be liable to the grossest abuse.

"The most important and obvious principle of rating, or, indeed, of any form of taxation, is that persons should be assessed according to their means, as nearly as possible. In comparing the liability of a given number of persons to taxation, we adopt some standard by which their means can be judged. Whatever standard is adopted, the results cannot be absolutely correct, because the information supplied will not be correct. But whatever standard is adopted, it must be obviously the same for all, as otherwise the results *must* be incorrect. It is simply illogical to adopt two different standards of comparison in regard to one set of objects to be compared, and to use one for part of them, and the other for the remainder. The result would not be one comparison of the whole number of objects, but two different and independent comparisons of two sets

of objects. The proposal, therefore, to introduce two modes of assessment, that is to say, of comparison of liability to taxation, in one and the same municipality, is simply a proposal to depart from the most important fundamental principle of taxation. Each assessee is not to be assessed according to the proportion which his assessable property bears to the whole assessable property of the town, but the whole number of assessees is to be arbitrarily divided into two groups, the members of each of which are to be compared one with another, but not with the members of the other group. If the object of this strange procedure is to compare the respective liability to taxation of the whole of the inhabitants of the town, it obviously fails to do anything of the sort, and the procedure is therefore irrational. If the object is not to compare the respective liability of the whole of the inhabitants of the town, the proposal sins against the most important fundamental principle of taxation. Obviously, the proposer of the provision in question is on the horns of a dilemma.

"It is interesting to note that the proposition that two different modes of assessment may properly be employed in the same assessable area was condemned by English Judges as long ago as 1633, in what is known as *Sir Anthony Earby's case.* It was then held that assessments of rates must be one and equal, that is to say, in proportion to the property of the assessees; and that in order to be so they must be made in an equal manner. The latter proposition is simply a logical consequence of the former. As Rosher remarks in his *Treatise on the Principles of the Law of Rating:* 'In order to rate in accordance with the principle of equality, a method of assessment is required that will affect all occupiers fairly and equally.' The ruling in *Sir Anthony Earby's case* has been settled law ever since. Two-and-a-half centuries of English law look down on the rash innovator, who would propose that two different modes of assessment should be in force at the same time in the same town.

"I have said that the proposed provision would be liable to the grossest abuse, and I submit that this is tolerably obvious. To allow the Commissioners of a municipality the option of assessing any person, either on his real property, or on both his real and personal property, for this is what it comes to, is obviously to allow them a dangerous amount of latitude in making assessments. The proposal appears to me to open a very wide door to jobbery and partiality. The inconsistency of such a proposal, with the remarks made on the subject of unfairness and partiality in municipal assessments in the

Government letter, and with certain provisions of the Bill, seems to me to be somewhat striking. Is it not clear that under the proposed system the Commissioners can be unfair and partial without let or hindrance? A is a bania with a lakh of rupees in personal property, and a small holding. Assess him on his total property, and he will pay a large tax. Assess him on his holding, and he will pay a small one. A vote of the Commissioners can, under the proposed section, do either one or the other. Is it necessary to say any more? I think not.

"When the concluding remarks were written, the proposal was that both taxes might be introduced throughout a municipality, but should not be levied on the same holding. The hon'ble mover of the amendment will, no doubt, argue that they are met by the provision that both taxes shall not be in force at the same time in the same ward. But if we remember that a ward is only an arbitrary division of a municipality, which the Commissioners can alter at a meeting at any time, there does not seem much force in this contention. There is nothing, so far as I can see, to prevent the Commissioners from making a single holding into a separate ward."

The Hon'ble SIR CHARLES PAUL said:—"I do not think the hon'ble mover of this amendment has sufficiently informed us of the reason why he desires that the Commissioners should be armed with both these powers. I look upon the first of these taxes—the tax upon persons according to their circumstances, as a very dangerous mode of taxation, and one which is liable to much abuse. The tax upon persons is an unfair tax, but to allow the Commissioners power to enforce both in the same municipality would be to arm them with greater powers than should be given. It is a very well-known fact that the Howrah Mills had to pay by far the largest amount of tax payable in the district of Howrah. Therefore I should be sorry to arm any body of Municipal Commissioners with the power of levying both taxes. No reason had been assigned for this proposal, and, as has been pointed out, you must start by ascertaining the amount of taxation you have to assess, and you must then select which mode of taxation you are going to adopt; but if you adopt both forms of taxation, you may be tempted to raise the largest sum of money you think you can raise, and thus create a much larger fund than you could if you were limited to one of two taxes. Even amiable bodies, such as those referred to by the hon'ble mover of the amendment, may do some amount of injustice under such circumstances."

The Hon'ble MR. ALLEN said:—"While endorsing all the objections that have been made to this amendment by the Hon'ble MR. COLLIER, I will go still further and I say in this Council that a personal tax is one that has no possible justification as a resource for raising funds within a municipality. The essence of municipal taxation is, that rates levied from the owners of property within a certain area being expended in such a manner that this property acquires an enhanced value, the owners, thus while giving in one direction, receive back in another. Need we look further than this city of Calcutta, in which we are to see evidence of the enormous extent to which the judicious expenditure of taxation raised on property will enhance the value of that property. The greater part of the area occupied by Calcutta was, I believe, the property of the Government which Government made over to individuals at a rental of something like Rs. 3 to Rs. 4 per bigah, which according to the principle of valuation laid down in the Land Acquisition Act would give something about Rs. 60 to Rs. 80 as the capital value of a bigah. That was the valuation the Government placed on the soil that it made over to individuals, and when the large road called Harrison Road, between Howrah and Sealdah, was lately made, and compensation for the land taken up paid to the owners, who had simply done nothing to enhance its value, but sit still for 60 years, the actual money in some instances paid was at the rate of Rs. 30,000 per cottah. They had this magnificent property raised up at the expense of many residents of the town, who had no permanent footing here. Such is the case even where a rate is levied on a proper principle from the occupants of tenures. But what justification is there for imposing, what in practice becomes a limited income-tax upon individuals, who have no permanent footing in the town, in order that by the introduction of drainage, water-supply, and other improvements, a property may be built up as has been done in Calcutta. Therefore I say that a personal tax is never justified as a source of municipal funds, and I also say that when in the past municipal legislation has been before this Council, no hon'ble member has ever attempted to justify it on any principle which will bear examination. The history of this personal tax explains how it came to be sanctioned. There was no thought of a municipality in the early years of British Rule, but the Magistrate was authorised to raise a small tax for the support of chaukidars. A very stringent limitation was imposed; the maximum taxation on any one family was to be the cost of one chaukidar, that is to say, Rs. 4 a month. The total rate was struck, so as to average two annas

a month on each. The money was to be expended solely for the protection of property. It was a simple chaukidari tax, and every pice was to be expended to protect the property within the area. Later on when the first Municipal Act was passed (Act III of 1864) that principle was abandoned in the areas which were to be brought under municipal government. The taxation provided by this Act being a rate on immoveable property or holdings. But a few years subsequently another Act was passed to provide for villages and other places which were not of sufficient importance to be classed as municipalities. That Act was called the Town Act of 1868. Under the first Municipal Act, the proper principle of taxation was adopted, namely, a rate on immoveable property within the area to be improved by the expenditure of that taxation. But under the next Act, a number of small villages were given a sort of municipal existence, and funds were provided by what I shall call a personal tax, which was really the chaukidari tax continued. When the Municipal Act of 1876 was passed, these two different constitutions—municipalities and so-called towns—were both brought under a single Act, different parts of it providing a different system for each. When the Act of 1884 was pased, the Act which we are now amending by the Bill before the Council, this distinction was not properly kept in view, and the whole mass of municipalities and quasi-municipalities and unions were jumbled together, and were all dignified with the name of Municipality; so that at the present hour we have something like 140 so-called municipalities in Bengal, whereas if due discrimination was observed, I believe the number would not exceed 20. Thus it comes that these two totally different systems of taxation are recognized in the current Act for Municipal Government.

"When subsequently under Lord Ripon's orders the charge for the police was taken off municipalities, the whole fund, which previously had been expended in maintaining chaukidars for the protection of property within towns, became available for quasi-municipal purposes. So strong was the objection to this system of a limited income-tax as it was worked in the towns in which it prevailed; so strong was the objection entertained by the Committee which was first appointed to consider this Bill of which Mr. Woodroffe, Babu Gonesh Chunder Chunder, Dr. Mahendra Lal Sircar, and some others were members, that after a great deal of discussion and enquiry it was decided by that Committee that the personal tax was indefensible, and that it would be for the good of everybody if it was entirely done away with.

But although that opinion was given effect to in the final draft of the Bill, which that Committee prepared, and which it directed to be submitted to this Council, that direction was disregarded, and in lieu of it we have what is called the latest draft as further amended by an amended Committee, wherein that personal tax has been restored, and now we have a still greater step proposed, which is, not merely that this objectionable quasi-income-tax which has been condemned by the general opinion of those who administer it, not only that it should prevail where it still prevails, but that it should find its way in and work side by side with the legitimate taxation imposed under the first Municipal Act for Bengal, which was, and always ought to be, a rate on immoveable property.

"It is needless to illustrate to the Council the sort of cases that came before us from which the inference was drawn that this quasi-income-tax was worked unjustly, and with no regard to principle. I could tell of many from my own experience of cases referred to me in which no possible justification could be offered. The appeal lately preferred from Backergunge to the High Court, and which was reported in the daily papers, illustrates to what lengths Municipal Commissioners in want of funds are prepared to go. One case I distinctly remember, as having attracted the attention of the then Advocate-General with reference to this personal tax was the ground alleged for exemption of a certain woman who had been taxed some small sum. The reason assigned was, that she had a violent temper and was very abusive. These, Sir, are the principles upon which this income-tax is based, and this is the way in which it is unjustly administered, and it would be easy to prove that it is not a proper tax to be administered by a municipal body. Odious and unjust as the income-tax is always recognised to be, the Bengal Municipalities possess no powers and no possible means of making proper enquiries as to the circumstances and condition of the individual to be taxed; and it would be the truest wisdom if some hon'ble member—I do not myself feel called upon to offer it—who represents, or who pretends to represent, the tax-paying public, would propose as an amendment that this tax upon persons should at once be removed from the Municipal Act. If there are places which are so insignificant, and so unimportant that the rate upon holdings will not provide a sufficient sum to warrant even the semblance of municipal administration, such places it would be a kindness to remove from the category of a

municipality. I have no doubt that if the inhabitants of such a locality were polled, there would be an overwhelming majority in favour of their being removed from the operation of the Municipal Act, and out of the 149 quasi-municipalities, we may have 30 or 40 real municipalities left.

"I have already said that I entirely endorse the objections made by the Hon'ble MR. COLLIER. I say that the enforcement of two different systems of taxation within the same municipality will lead to great injustice, and that practically it is impossible that it can be done with due regard to equity."

The Hon'ble BABU SURENDRANATH BANERJEE in reply said:—"I venture to say that the Hon'ble the Legal Remembrancer has really spoken in support of my amendment. The object of his observations was to condemn the personal tax. The object of my amendment is, to limit the scope of the personal tax by introducing the tax upon holdings side by side with it. It is said that it would be anomalous to have two forms of taxation side by side in the same municipality, but have we not that anomaly in full swing now? What is the latrine-tax? It is a tax on holdings which is enforced in many municipalities in which the tax upon persons is in force. Therefore let us not be deterred by this anomalous circumstance, but let us rather be guided by large considerations of administrative convenience, and if we look to practical and administrative convenience, this amendment is one which should commend itself to the acceptance of the Council."

The Hon'ble THE PRESIDENT said:—"There has been such an amount of legal learning expended against this amendment that I think I ought to point out a little more in detail than I would otherwise have done what the grounds are on which the Government accepts it. As originally drafted, the Bill contained a provision which went beyond this proposal and allowed the two modes of taxation to work side by side in the same municipality and the same ward, so long as no individual was taxed in both ways. The first Select Committee went so far as to strike out the tax on persons altogether. I looked upon that action of the Committee with great appprehension, and I was greatly relieved to find that the enlarged Select Committee took a view which was more in consonance with my own, and with the general view of those who have great experience in the working of municipalities, and who think that the two forms of taxation ought to go on side by side. The original proposal is now brought forward with the slight restriction that the two forms of taxation

should not be imposed in the same ward. If the original proposal had been embodied in the amendment, I do not think I should have opposed it, but I feel that there is some validity in the objection which the Hon'ble MR. COLLIER took to it, namely, that the limits of a ward being arbitrary, it would be possible for a municipality to take a large house and make it a ward by itself, and so get round the intention of this provision, and put this special tax upon any individual house. I think, therefore, that there is some advantage in the proposal as it now stands; and at any rate I am not going to propose any change. But when my hon'ble friend MR. COLLIER refers to two and-a-half centuries of legal illumination looking down with disapproval upon us, and the Hon'ble the Legal Remembrancer points out that the tax on persons may be misused by men who wish to carry out some personal spite, or to raise the utmost sum of money they can, I think we are justified in appealing to the experience in this Province during so many years. Every one will admit that a tax based upon a certain percentage of the rental value of a house is a more scientific way of imposing taxation than that which has been justly called a limited form of income-tax; but we must remember that this is a tax which has been in force not only under our municipal laws, but in far distant times, earlier even than the law to which the Hon'ble MR. ALLEN referred, from the date of the Moghul and Nawabee Rule. It is the old ancestral system of the country, and I do not think we are in a position altogether to put it away or to declare it.

"From the mere fact that some municipalities are properly taxed under one form of taxation, and some under the other, it seems reasonable to assume that there may be areas within some municipalities in which either the one or the other form of taxation would be more suitable than to impose one and the same tax over the whole of such areas. I believe the effect, if this amendment is passed, will be, not that we shall find any municipality going back from a seven-and-a-half-per-cent. rate upon the rental of holdings to the arbitrary freedom of a limited form of income-tax, but that in these municipalities which are not sufficiently advanced, and not sufficiently urban for a rate on holdings to be universally imposed, while in certain wards the arbitrary income-tax will still exist, in other wards of the same municipality a tax based upon the rent value will be imposed. And I venture to think that that would be a change in the right direction."

[*Mr. Ghose.*]

The Motion being put, the Council divided:—

Ayes 12.

The Hon'ble Mr. Stuart.
The Hon'ble Mr. Womack.
The Hon'ble Mr. Bonnerjee.
The Hon'ble Maulvi Serajul Islam Khan Bahadur.
The Hon'ble Mr. Ghose.
The Hon'ble Babu Surendranath Banerjee.
The Hon'ble Maulvi Syed Fazl Imam Khan Bahadur.
The Hon'ble Mr. Wilkins.
The Hon'ble Mr. Bourdillon.
The Hon'ble Mr. Lyall.
The Hon'ble Sir John Lambert.
The Hon'ble Mr. Cotton.

Noes 4.

The Hon'ble Mr. Collier.
The Hon'ble Maulvi Abdul Jubbar Khan Bahadur.
The Hon'ble Mr. Allen.
The Hon'ble Sir Charles Paul.

So the Motion was carried.

The Hon'ble MR. GHOSE moved that in line 5 of section 34 of the Bill for the word "ownership" the word "occupation" be substituted. He said:—

"I believe section 34 of the Bill was added in Select Committee at the instance of the Hon'ble MR. COLLIER, who suggested that the words 'or in respect of the ownership of any public burial or burning ground registered under section 234' should be inserted at the end of the last paragraph of section 87 of the Act. But he altogether overlooked the fact that there is a very marked distinction between these two forms of taxation, namely, the tax upon persons according to their circumstances, and a rate on the annual value of holdings. The tax on persons was payable only by occupiers and not by owners, whereas the rate on the value of holdings is payable by owners and not by occupiers. If hon'ble members will turn to section 87 of the Act, they will find that an assessment list is to be prepared which shall contain certain particulars. In column (*c*) the name of the person occupying the holding is to be given, and in column (*g*), if the occupier of the holding is exempted from assessment, a note to that effect is to be made. The list is not to contain the name of the *owner*. Section 89 provides that no tax is to be imposed in respect of the *occupation* of public buildings. Section 91, which gives a power of exemption in favour of poor persons, says,

'but the name of the *occupier* of every holding shall be included in the assessment list, whether he be assessed or exempted from assessment,' and so in sections 94 and 95, the last sections regarding the assessment of the tax on persons, which speak of *new occupiers* and the *vacancy* of holdings. On the other hand, turning to section 103, which deals with the rate on the annual value of holdings, we find that in the rating list the name of the occupier is not to be stated, but the name of the *owner*, and the last paragraph of that section provides that the rate is to be paid in quarterly instalments by the *owner* of the buildings; so that an examination of these sections will prove beyond all doubt that there is this distinction carefully preserved; the one tax is levied always on the occupier, and the other always on the owner. Therefore by introducing the word 'owner' in this section you will be introducing into it an element of confusion, where everything at present is perfectly clear and intelligible. If this view of the existing law is correct—and I confidently appeal to my honourable and learned friends the Advocate-General and the Member for the University on the point—it is scarcely necessary to introduce these words for the exemption of burial and burning grounds. I am not aware that they have any occupiers at all unless it be those who are far beyond the reach of the tax-gatherer, and I believe that is the very reason why in the Act of 1884 there is no mention of burial and burning grounds in reference to the tax on persons. It was not because they had forgotten burial and burning grounds, because in the section relating to the rate on the annual value of holdings, burial and burning grounds are expressly exempted, whereas in section 87, which is sought to be amended by section 34 of the Bill, it is expressly stated that such tax shall not be assessed or levied on any person in respect of the occupation of arable land, or of any building which is used exclusively as a place of public worship, inasmuch as such building is usually in the occupation of some person. The framers of the Act evidently considered that a burning or a burial-ground is not in the occupation of any person. I think, therefore, that the existing Act is very much more logical than it is considered to be by some persons who wish to improve it. We were told in Committee that some saintly Muhammadan *fakir* might perhaps take up his abode in a burial-ground, but he would hardly be a very hopeful subject for taxation. However, I do not desire to raise the larger question. I beg to move that the word 'occupation' be substituted for the word 'ownership.'"

[*Mr. Collier; Mr. Cotton; Mr. Bourdillon; Mr. Lyall.*]

The Hon'ble MR. COLLIER said:—"I am rather inclined to agree in the view taken by the hon'ble member, and think that the term 'occupation' should be substituted in section 34 for the word 'ownership.' But I do not know why the hon'ble mover of the amendment ascribes the authorship of this section to me. I had nothing to do with it except discussing it in Select Committee."

The Hon'ble MR. COTTON said:—"I do not know whether I shall be in order if I call attention to the provision of this section which declares that the words 'of arable lands' shall be omitted. Section 87 of the Act provides that 'such tax shall not be assessed or levied on any person in respect of the occupation of arable lands' There is no explanation why it is proposed to omit the words 'arable lands, or.' An amendment to restore these words stood, I think, in the name of the Hon'ble BABU GONESH CHUNDER CHUNDER. I should like to have some explanation by the hon'ble member in charge of the Bill why those words are proposed to be omitted."

The Hon'ble MR. BOURDILLON said:—"As far as my memory serves me, the proposal to subject arable lands to the tax on persons was to bring what is actually the practice into conformity with the law. It is true that, as the law stands, the personal tax cannot be levied on arable lands, but in practice, when the circumstances and property of a person are under consideration, Municipal Commissioners always do consider the quantity of land he cultivates and occupies. It was therefore the opinion of the Select Committee that the law should be brought into conformity with the practice. With regard to the proposal to substitute the word 'occupation' for 'ownership', the correction is sound; the word 'ownership' having, I think, been inserted by a slip. The Committee shared the feeling expressed by the hon'ble mover of the amendment that living persons do not often occupy burial-grounds. I am prepared to accept the amendment, and to substitute the word 'occupation' for 'ownership,' making only one remark that my experience does not coincide with that of the hon'ble member, for in many parts of the country these persons who dwell in burial-grounds are persons of some substance and fit subjects for taxation."

The Hon'ble MR. LYALL said:—"I wish to add another word in explanation. The main reason why the Select Committee decided to tax 'arable lands' within a municipality was, because under the Road Cess Act arable lands within

municipalities at present escape taxation under that Act. Such lands are close to good markets, and the produce is easily disposed of, and we saw no reason why as they escaped from taxation under the one Act they should also escape under the other. The majority of the Committee therefore agreed that we should impose a tax upon arable lands by this Bill."

The Motion was put and agreed to.

The Hon'ble MR. GHOSE also moved that at the end of section 39 of the Bill the following be added .—

"And at the end of the same section, the following proviso shall be added :—

'Provided that where an Assessor is appointed, such Assessor shall not be competent to authorize any other person to enter, inspect and measure any such holding.' "

He said :—

"I shall explain in two or three words the object of this amendment. Section 99 of the Act confers power upon the Municipal Commissioners to enter and to inspect and measure any holding whenever they like within certain hours and also to authorise other persons to do so. It may be very necessary to enable the Municipal Commissioners to authorise their servants to exercise this power on their behalf, but when a special officer like an Assessor is appointed to perform these very duties, I do not see any reason why he should be permitted to delegate his powers to anybody else. Everybody is aware that in the Mufassal there is a great deal of blackmail levied in the execution of every petty act of authority, and the Legislature should take special care not to widen the opportunities for levying blackmail, and therefore an officer, specially appointed for a particular purpose, should not be permitted to get rid of his responsibility or to share it with any other person in the event of any corrupt practices in connection with the exercise of those powers."

The Motion was put and agreed to.

The Hon'ble MR. COLLIER moved that the following section be added to the Bill after section 39 :—

"*Section* 39*A*.—In section one hundred and one, in the second paragraph, after the words 'Provided that' the words 'except in the Darjeeling Municipality' shall be inserted."

[*Mr. Collier.*]

He said:—

"With your permission, I will read the representation of the Darjeeling Municipality on this subject. They said:—

'Section 101 of the Municipal Act lays down "that the gross annual rent at which a holding may be reasonably expected to let shall be deemed to be the annual value thereof for the purposes of assessment, provided that if the actual cost of erecting a building can be ascertained or estimated, the annual value of such building shall in no case be deemed to exceed an amount which would be equal to 7½ per centum on such cost in addition to a reasonable ground-rent for the land comprised in the holding."

'The mode of assessment followed in this municipality has been, as regards European and superior built houses, to take the rent at which a house has been let, is let, or can be let as the annual value, and as regards houses built, used, or occupied by the poorer classes of natives, by measurement on the scale as per statement annexed. The latter course was adopted in a scattered place like Darjeeling to secure fairness and uniformity in assessments, and it has practically worked without objection.

'Recently the owners of new built houses are claiming, under the proviso above referred to, to have their houses assessed on the cost of erection, and although the letting value of such houses may be, say, Rs. 100 per mensem, or Rs. 1,200 a year, the value calculated on the cost of erection should be only, say, Rs. 50 per mensem, or Rs. 600 a year, and the loss of income to the Municipality, if these claims are persisted in now and at the re-assessment about 18 months hence, will be very serious.

'House-rent at Darjeeling is high, and taken as the basis for assessment yields more than an assessment on the cost of erection would yield. Added to this, owners may and do build houses of old or cheap material such as corrugated iron, and so reduce the cost of erection and the taxes to be paid to the municipality

'Under the circumstances, it is suggested that advantage be taken of the movement now before the Bengal Legislative Council to amend the Municipal Act so as to allow the assessment of European and superior built houses at Darjeeling to be made on the gross annual rent at which such houses are let, or may be reasonably expected to let, and of inferior houses built, used, or occupied by the poorer classes of natives on reasonable measurements and rates to be fixed by the Commissioners.'

"The circumstances of Darjeeling appear to be altogether exceptional. The expenditure of that municipality is extremely high; they have a large number of roads to keep up in which landslips are frequently occurring; but, on the other hand, the cost of construction of houses is extremely low. A provision of the kind contained in the first proviso to section 101 appears to be no necessary part of the law of assessment, and was introduced in the Act of 1884

to meet cases of the excessive assessment of mills and factories and Government buildings, and its application would therefore be extremely limited in Darjeeling. Under the circumstances, I would suggest that it would be reasonable to except the Darjeeling Municipality from the operation of this proviso."

The Motion was put and agreed to.

The consideration of the other amendments was postponed to the next sitting of the Council.

The Council adjourned to Saturday, the 21st instant.

CALCUTTA;
The 15th May, 1894.

GORDON LEITH,
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

Reg No. 167G—300—17-5-94.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892.

The Council met at the Council Chamber on Saturday, the 21st April, 1894.

Present:

The Hon'ble Sir Charles Alfred Elliott, K.C.S.I., Lieutenant-Governor of Bengal, *presiding.*

The Hon'ble Sir Charles Paul, K.C.I.E., *Advocate-General.*

The Hon'ble T. T. Allen.

The Hon'ble H. J. S. Cotton, C.S.I.

The Hon'ble Sir John Lambert, K.C.I.E.

The Hon'ble D. R. Lyall, C.S.I.

The Hon'ble J. A. Bourdillon.

The Hon'ble Maulvi Abdul Jubbar Khan Bahadur.

The Hon'ble F. R. S. Collier.

The Hon'ble C. E. Buckland.

The Hon'ble C. A. Wilkins.

The Hon'ble Maulvi Syed Fazl Imam Khan Bahadur.

The Hon'ble Surendranath Banerjee.

The Hon'ble L. Ghose.

The Hon'ble Maulvi Serajul Islam Khan Bahadur.

The Hon'ble W. C. Bonnerjee.

The Hon'ble J. G. Womack.

The Hon'ble Maharaja Jagadindra Nath Roy of Nator.

The Hon'ble J. N. Stuart.

BENGAL MUNICIPAL ACT, III OF 1884, AMENDMENT BILL.

The Hon'ble Mr. Bourdillon moved that the clauses of the Bill to amend Bengal Act III of 1884, as amended by the enlarged Select Committee, be further considered for settlement in the form recommended by the Select Committee.

The Motion was put and agreed to.

[*Babu Surendranath Banerjee.*]

The Hon'ble BABU SURENDRANATH BANERJEE moved that section 40 of the Bill be omitted. He said:—

"Section 40 provides that the Local Government, on the report of the Commissioner of the Division, may require the Commissioners of a municipality to revise the assessments, on the Local Government being satisfied that the assessments made by them are insufficient or inequitable, or may call upon the Commissioners to show cause against such order. If they fail to comply with such order, or if the assessment, as revised by them, is still considered insufficient or inequitable, the Local Government may require the Commissioners to appoint an Assessor for a period specified in the order, and such Assessor shall exercise all the powers of assessment vested by this Act in the Commissioners. I gratefully acknowledge that the section is a considerable improvement on the original section, which provided that there should be an Assessor in respect of each municipality or an Assessor in respect of two or more municipalities according to the directions of the Government; that he was to be a permanent official; that although appointed by the Commissioners, he was to be appointed under rules to be framed by the Government, and he could be dismissed by the Local Government alone. This somewhat drastic provision has been abandoned in favour of the section to which my amendment refers. I am free to admit that there are instances of unjust or inequitable assessment made by Municipal Commissioners, but I am not satisfied that the section, even as revised by the Select Committee, is necessary. I do not see the justification for this section. Is this the remedy for inequitable or insufficient assessment? Ought we not rather to trust the Commissioners, depend on the steady operation of those forces which are already at work, and which are making our municipal institutions a greater success, day by day. We are familiar with the history of municipal and parliamentary institutions in England; we know how they have outgrown the defects and even the corruptions of their early days until they have become what they now are—the models of similar institutions throughout the civilized world. Similar circumstances will contribute to produce similar results even in India. It is the patience and forbearance of the Rulers of the English people that have produced these results. Patience and forbearance will not be lost upon the Bengal Municipalities. Great administrative achievements are not the work of a day: they are the growth of time, the slow result of those forces which work noiselessly in the

bosom of society. They are less the outcome of legislative enactments, however wise in their scope, and however beneficent in their intentions.

"I should feel less hesitation in accepting the amendment of the law proposed by this section, if I could persuade myself to believe that the evil was widespread or general; but, so far from that being the case, every revision of the municipal assessment has been attended with a substantial increase of municipal revenue. I hold in my hand the Government Reports on the Working of Municipalities in Bengal, containing the figures of four years preceding 1893-94 (the figures for 1893-94 are not yet available), and they amply bear out the view which I have ventured to put forward, namely, that the result of municipal assessments shows a distinct increase of municipal revenue each time. For instance, the result of the revision of assessment in 1889-90 was to give an increase of revenue to the extent of Rs. 10,984, taking all the municipalities in Bengal; the result of the revision in 1890-91 was even more satisfactory, the increase being to the extent of Rs. 21,075; in 1891-92 it was still more satisfactory, looking at the figures from the point of view which I shall presently explain; the increase was Rs. 19,920, but this includes a decrease of nearly Rs. 8,000 owing to a revision of the assessments in the Darjeeling Municipality, so that there was an increase of Rs. 26,000 in respect of all the municipalities in Bengal excluding Darjeeling; in 1892-93, the last year for which we have the figures, there was an increase of Rs. 55,234 over the revenues of the preceding year. Could anything be more conclusive or convincing than these figures, in the eloquent testimony which they bear to the capacity and public spirit of our Municipal Commissioners in making assessments? Here and there, there may be cases of partiality—here and there, there may be instances of insufficient and inequitable assessments, but taking the assessments as a whole—and the practical administrator is bound to be guided by general results and not by isolated cases—it must be admitted that the Municipal Commissioners in Bengal have done their duty properly and well, and that, under their fostering care and influence, the municipal revenues have steadily increased. I submit that, under the circumstances, it would be but a poor return for loyal and devoted work done by the bulk of the municipalities in Bengal for the Government to ask for and to assume a further extension of the powers of control in order to be able to deal with isolated instances of municipal recusancy. Your Honour observed the other day that we ought to

assume that Municipal Commissioners would act reasonably. I feel sure that if you trust them and place confidence in them, your trust will not be abused—your confidence will not be misplaced; they will evoke a deeper sense of responsibility, and will call forth a wider effort on the part of the Municipal Commissioners to prove themselves worthy of the confidence which the Government has reposed in them. With these remarks, I have the honour to move that section 40 of the Bill be omitted."

The Hon'ble MR. BOURDILLON said:—"After the elaborate discussion to which the Assessor sections of this Bill have been subjected, and after the modifications which have been made in them from time to time, with the object of complying, as far as possible, with the reasonable wishes of the public, so far as they could be ascertained, I had hoped that the sections, as they now stand in the Bill, would have been passed into law by this Council without being once more put upon their defence. But it appears, Sir, that this aspiration was premature, and that the hon'ble member who has moved the amendment considers himself bound to press to the very last the views of which he is the exponent, and to attempt what I trust, Sir, will prove to be the hopeless task of persuading this Council that the power which it is proposed to confer upon Government to require the appointment of an Assessor of municipal taxes under certain circumstances is wholly unnecessary and entirely opposed to the best interests of municipal administration in Bengal. As the glove has been thrown down, Sir, I have no alternative but to lift it. I will endeavour to show, with as much brevity as the subject permits, what strong grounds exist for the appointment of an Assessor, and how much the Lieutenant-Governor has conceded to the wishes and the opinions of the numerous advisers of all classes whom he has consulted.

"The circumstances under which the appointment of an Assessor was first mooted are described in a letter addressed by the Government of Bengal to the Government of India on the 21st September, 1891. It was there explained that the Lieutenant-Governor's attention had been drawn during his tours of inspection to the general inadequacy and inequality of municipal assessments throughout Bengal: he had found specific instances where Municipal Commissioners had displayed unfairness and partiality in assessments, and 'he had good grounds for believing that Municipal Commissioners themselves would not be sorry to be relieved of a duty which is profoundly distasteful to them, which

places them in positions of considerable trial and temptation, and which, if they do their duty, may expose them to unpleasant social obloquy. Moreover, apart from the question of assessments which are wilfully unfair, very great inequality in assessment arises from the practice of the Commissioners dividing the work and each taking different wards or groups to value. Such a division of duties is inevitable, so long as the difficult task of valuation is discharged by a number of gentlemen who have no special qualification for the duty, and do not work on any common principle. But it is clear that it must tend to produce great injustice in the incidence of municipal taxation on individuals, and that the appointment of a single Assessor would lead to a more equitable distribution of public burdens.'

"The letter then proceeds to point out that exactly similar consequences followed in England upon the attempt to assess the poor-rate through the agency of members of a committee appointed by the vestry, the result being that, by successive enactments, power has been conferred on the guardians of parishes and unions to appoint fit and proper persons to make the assessment for them. The principles of the latest English legislation on the subject (32 and 33 Vict., cap. 67) were adopted as the basis of the sections as first framed, and section 21 of the draft Bill, which accompanied the letter from which I have been quoting, provided that, wherever the tax upon persons or rate upon holdings was imposed or came under revision, the Commissioner of the Division might appoint an Assessor of municipal taxes: this officer was to have the powers of the Commissioners in regard to assessments subject to an appeal to the Magistrate of the District: the Commissioner of the Division was empowered to appoint an Assessor either for a particular municipality or for all or some of the municipalities situated within a certain area, and was to settle his remuneration and regulate his procedure. This draft Bill was circulated on the 21st September, 1891, to local officers for opinion, and that opinion was generally favourable to the principle of these sections, though many officers criticised their details. Several officers corroborated the statement that municipal assessments were unequal and inadequate. After these reports had been considered, a further draft of the Bill was prepared and circulated on the 7th January, 1892, for an expression of the opinion of Commissioners, District Officers and Municipal Commissioners.

"The provisions as to the Assessor were contained in sections 27 to 31 of that Bill. It was then enacted that whenever the Magistrate of the District found reason to disapprove of any assessment, he was to call on the Commissioners to revise it, and if they failed to do so, or to satisfy him that it was fair and proper, he could, with the previous sanction of the Commissioner, appoint an Assessor for the purpose: the Assessor was to be associated with two Municipal Commissioners, and arrangements were made for the decision of differences between the Assessor and his colleagues. In commenting upon these sections, the Hon'ble MR. RISLEY wrote as follows:—

'In the sections which have been drafted for this purpose, the Lieutenant-Governor has endeavoured to attain the object in view with the least possible interference with the independence of the Municipal Commissioners. Under section 62 of the Act, as it now stands, the Magistrate of the District has already the power to call for and examine the assessment list: and the procedure provided in section 112A of the Bill gives the Commissioners ample power to remove, of their own motion, the defects to which the Magistrate may draw attention. If, after the full warning which will be given to them, they neglect to take the necessary action to revise the list, they have only themselves to blame when the Magistrate takes the work of assessment out of their hands. Even in that case, however, they will be given ample opportunity to state their views while the assessment is going on.'

"The Government of India gave a general assent to these provisions. Before the third draft of the Bill was introduced into Council on the 16th July, 1892, these proposals had been further modified, and section 28 provided for the appointment of an Assessor of municipal taxes for every municipality or any two or more municipalities according as the Local Government shall direct: he was to be appointed by the Commissioners themselves, subject to the approval of the Local Government, and the Lieutenant-Governor was empowered to make the necessary rules for his pay and appointment: at the same time, a complete set of instructions was elaborated to guide him in the work of assessment.

"The preliminary report of the Select Committee was laid before Council on the 30th August of the same year: the Bill as presented by them made practically no alterations in the Assessor sections, the reason being that until the question was settled whether the tax on persons should be retained, the Committee considered it useless to go into the matter of the Assessor. The Bill in the form which was presented to Council was circulated once more, and when the Select Committee which sat through the cold weather of 1892-93 prepared

the dr hich for reasons that I have already stated in this Council was never presented, the Assessor provisions were practically unaltered.

"Then, Sir, came the enlargement of this Council, followed by the appointment of an enlarged Select Committee, and the whole question was re-examined *ab initio*. A majority of the Committee accepted, as proved, the necessity for the appointment of an Assessor under certain circumstances, but it was felt that the then existing provisions of the Bill for the appointment of an Assessor were of too general application, and that it would be sufficient to provide for the appointment of an Assessor upon proof being given in each case of the necessity for such a course. The words of the Select Committee's report were these:—

'After mature consideration, we have omitted section 31 of the Bill referred to the Select Committee, providing for the appointment of an Assessor of municipal taxes and for his proceedings. We were inclined to doubt the necessity of any general order of this character, and were unable to devise any satisfactory principle for its application. We have therefore met what we consider to be the requirements of the case by providing (section 40 of the Bill) a new section (111A) of the Act, which gives power to the Local Government, whenever the assessment of a municipality appears to be insufficient or inequitable, to call upon the Commissioners to revise, amend or justify it, and in default to appoint an Assessor for the purpose.'

"Such, Sir, in a few words, is the history of what is now section 40 of the Bill, and I have grievously wasted the time of this House, and lamentably misused the gift of speech, if I have failed to show with what scrupulous attention the proposal to appoint an Assessor has been considered, and how carefully the scheme has been remodelled from time to time with the object of placing it before Council in the most suitable form. No general appointment of Assessors is now to take place under the orders of the local officers, but wherever there is reason to believe that the assessment in any municipality is insufficient or inequitable, the Commissioners are to be told by the Local Government of their reputed shortcomings, and are to be invited to correct them: should they fail to do so, even then Government will not appoint an Assessor, but the Commissioners themselves will be directed to do so, the supervision of Government being confined to the regulation of his allowances and to fixing the period within which his labours are to be completed.

"It seems to me, Sir, that this measure is one which should command the unhesitating support of this Council. The existence in many

municipalities of inadequate and inequitable assessments has been asserted by the highest authority in the Province as the result of his personal investigations, and I unhesitatingly declare that the experience of every member here, who has ever been conversant with municipal affairs, will corroborate the Lieutenant-Governor's conclusions. It has therefore become essential, in the interests of the municipal public, that the power of ordering a revision of faulty assessments should be conferred upon Government, and I submit that the necessary power of interference has been assumed with a solicitous consideration for the independence and self-respect of municipal authorities which merits the gratitude of the friends of Municipal Self-Government, and should have protected the Administration from the attack of the mover of this amendment."

The Hon'ble MAULVI SYED FAZL IMAM KHAN BAHADUR said:—"I will not detain the Council long, for the hon'ble member in charge of the Bill has very ably and fully given the history of the origin of this section and the changes which it has gone through. I will, therefore, confine myself to the following few remarks:—I was a member of the Select Committee by whom, after a great deal of deliberation, this section (40) of the Bill was framed. I do not think there is any question of distrust or want of confidence, because the power of appeal will still rest with the Commissioners. It is owing to the help which the Commissioners themselves desire to have in making assessments that it is proposed to appoint an Assessor, and from my experience, I believe that in most cases the Commissioners themselves will be glad to get rid of the burden of making the assessments, because their associations with their neighbours and friends will oblige them either to make themselves unpopular, or to yield to private influences. For example: in Patna, the Municipal Commissioners themselves applied to the Commissioner of the Division to permit them to have a paid Assessor, and I am glad to inform the Council that the work is far better done by a paid assistant; the assessments are made properly and equitably and without any hitch, and appeals are heard by the Commissioners without having to take the trouble to go from house to house, and make the assessments themselves. It is not the intention of the Government to take action under this section in every case, but only in cases where the work of assessment is not properly done. The section requires the Government first to call upon the Commissioners to revise and correct the assessment, and the Select Committee were satisfied that such a provision would not detract from the self-respect and dignity of the Commissioners. With these observations, I would strongly oppose the amendment."

[*Maulvi Abdul Jubbar ; Mr. Bonnerjee.*]

The Hon'ble MAULVI ABDUL JUBBAR KHAN BAHADUR said :—"I oppose this amendment. Unfortunately I was not in my place in Council when the hon'ble mover of the amendment spoke, and therefore I have not heard what he said in support of his amendment, but I am of opinion that the existence of a provision, such as section 40, is necessary in the cases of municipalities in which the assessments may be inequitable. Hon'ble members may remember that at the last meeting of the Council, the hon'ble mover of the present amendment had an amendment carried which would enable Municipal Commissioners to impose different taxes in different wards of the same municipality. I have reason to apprehend that in the wards where Muhammadan residents predominate the personal tax will be the rule, and as the assessment of this tax is based upon no certain data, but would often be the result of mere guess-work, I am afraid that Muhammadans will be unjustly taxed. Muhammadans as a rule try to live well, while their Hindu neighbours are wisely economical, they will appear better off than they really are, and their income will be taken to be higher than it actually is, and in most cases they will be inequitably assessed; therefore, I say there ought to be a provision in the Act which will enable the Government to do justice to those who may be inequitably assessed. For these reasons, I strongly object to the amendment."

The Hon'ble MR. BONNERJEE said :—"It appears to me that this new section, which is intended to be added to the old section 111, will not be of any practical efficacy. The evil intended to be guarded against is, the insufficiency or inequitableness of assessments. The new section provides that where the assessment of a municipality is insufficient or inequitable, the Local Government may, by an order in writing, require the Commissioners to revise and amend the assessment, or to show cause against such order; and if they fail to comply with the order, or if in the opinion of the Local Government the revised and amended assessment is insufficient or inequitable, the Government may require the Commissioners to appoint an Assessor, and such Assessor shall exercise all the powers of assessment vested in the Commissioners. Therefore the appointment of an Assessor is to be made, if the Local Government is not satisfied with the assessment made by the Commissioners, or, in other words, if the Government is satisfied that the assessment is insufficient or inequitable. As has been pointed out by the hon'ble member who spoke last but one, under section 113 of the present Act, any person

who is dissatisfied with the assessment made upon him, may apply to the Commissioners to review such assessment. It is proposed by section 41 of the Bill to add to section 113 of the Act the following proviso:—'When an Assessor has been appointed under section 111A, notice of every such application shall be given by the Commissioners to the Assessor.' Assuming that section 41 of the Bill is carried, we shall have appeals preferred to the Commissioners against assessments made by the Assessor, and under section 114 of the Act, appeals so preferred shall be heard and determined by three Commissioners, who, under section 42 of the Bill, if carried, are to be appointed by the 'Commissioners at a meeting.' The state of things, then, will be this: you will have an Assessor appointed because there has been an insufficient or improper assessment; the Assessor will make his assessment, which will be taken to be a sufficient and equitable assessment; then there will be an appeal to the Commissioners, and the Commissioners to whom the appeal will be referred for disposal, will have the power of going back to the old assessment. If they do so, there is nothing in the proposed Act to set them right by any authority.

"If it is intended to guard against insufficient and inequitable assessments by Municipal Commissioners, the Commissioners should have no power to interfere with the assessments made by an Assessor appointed under section 111A; but if you give the Commissioners the power of hearing appeals from such assessments, you practically come back to the original order of things. Besides, these sections will, I apprehend, give rise to a considerable amount of difficulty. You may have a great many intrigues going on at the same time; petition after petition may be submitted to the Commissioner of the Division; they will probably be forwarded to the Government, and the work of the Government will thus be heavily increased. I think that the plan devised by the hon'ble member in charge of the Bill is not workable in the spirit in which it is intended to be worked, and will be entirely inefficacious. I therefore suggest that the consideration of this section should stand over, and if it is determined to make provision to guard against insufficient and inequitable assessments, some other plan should be adopted instead of the one provided in the Bill."

The Hon'ble MR. COLLIER said:—"I think the arguments which have been put orward by the last speaker tend to show that section 41 of the Bill should be omitted altogether. Section 40 provides that the Assessor shall exercise all

the powers of assessment vested by the Act in the Municipal Commissioners. It will apparently follow that, under section 113 of the Act, any person aggrieved by an assessment should apply not to the Commissioners, but to the Assessor to review the amount of assessment, or to exempt him from assessment. I think this point has been overlooked. The procedure would then work all right."

The Hon'ble SIR CHARLES PAUL said:—"I shall support this amendment. I consider the words 'insufficient' and 'inequitable' vague. They ought not to be admitted into our Statute Law. 'Insufficient' may mean *either* that the taxes raised are not sufficient to cover the ordinary requirements and expenses of a municipality, or while the amount raised is sufficient for these purposes, it is capable of increase if assessed in a strict and not liberal manner. The word 'inequitable' is to my mind meaningless. The Roman Prætors were supposed to smooth the asperities of the law; Lord Chancellors in former days decided in Courts of Equity according to their notions of equity and good conscience. There was no limit to their discretion, and their judgments might have overstepped the boundary line which divides discretion from caprice. At the present time, the rules and principles in Equity are as strict as those at Common Law. Popularly speaking, 'inequitable' is applied to cases which, though not illegal or contrary to law, seem to the mind of the speaker as something wrong and beyond the domain of the law. What something is, may be discretion or caprice. Powers of this kind should be clearly defined. They are extraordinary powers. Without a clear specification, mischief or vexation may be occasioned. If by the word 'inequitable' the idea is intended to be conveyed that the amount raised is not in accordance with the law or inequal in its incidence, a clear indication of the exact intention of the Legislature should be given.

"Any individual who is improperly assessed has a right of appeal, under which his complaint may prove successful. And I do not see that he has any 'equity' in saying that his neighbour, according to his views, has not been rightly assessed. That is a matter for the Commissioners; and looking on the subject by the light of my experience, I do not think that leniency is generally to be attributed to them. If municipal constitutions have reached the stage of trust, as I hear it loudly proclaimed at this Council, they should not be submitted to such control as is devised in the proposed section."

The Hon'ble MR. GHOSE said:—"As a member of the Select Committee I wish to explain why I shall vote in favour of this amendment, and also desire to bear testimony to the spirit of conciliation with which the hon'ble member in charge of the Bill approached the consideration of this matter when it was discussed in Committee. I have to thank him and the Government for the various concessions which have been made in regard to these Assessor sections. As these sections stood originally in the Bill referred to the enlarged Select Committee, I felt, with my friends, that they were open to very serious objections. It was then sought to make the Assessor almost wholly independent of the Municipal Commissioners, and to make him a sort of Mayor of the Palace, but all those obnoxious features having disappeared, I should have felt no hesitation in supporting the section as it stands, but for the fact that at a Conference attended by many Municipal Commissioners, mostly Chairmen of Municipalities in the Presidency Division, I found that, while they were unanimous in welcoming the appointment of an Assessor, as they would thereby get rid of a thankless and odious duty which renders them liable either to the imputation of being partial or to that of being unjustly severe, they were also of opinion that there are many municipalities where they can ill afford to pay for the services of an Assessor, because, unless such an officer is sufficiently and adequately paid, you will be importing into the municipal establishment an additional officer, who will make good the deficiency in his pay by levying black-mail, and it was felt, therefore, that it would be inadvisable to compel every municipality to appoint an Assessor, but that, when they can afford it, Municipal Commissioners would greatly appreciate the services of such an officer.

"The hon'ble member on my right (MAULVI SYED FAZL IMAM) also referred to the concessions made by the hon'ble member in charge of the Bill, and especially to the appeal allowed to the Commissioners in meeting; but I am bound to say that no thanks are due to the hon'ble member for those concessions; for whenever we proposed any modification, and the hon'ble member in charge was disposed to make any concession, the hon'ble member on my right always voted against us. The hon'ble member opposite (MAULVI ABDUL JUBBAR) has referred to the Muhammadans, and seems to think that wherever the Muhammadans are in the majority, the tax upon persons would prevail. I must say that if I was in such a position, I should be thankful

for it, for I should then know that my tax could never exceed seven rupees a month, whereas in regard to the rate on the annual value of houses and lands there was absolutely no limit. Therefore I say that instead of making that a subject of complaint, the hon'ble member should be thankful. For these reasons, if my hon'ble friend presses his amendment, it will be my duty to support it."

The Hon'ble MR. ALLEN said:—"The Hon'ble the Advocate-General has opposed this section on the ground that he is unable to understand what 'inequitable' means. I will say that it would be inequitable if my small house at Ballygunge was to be rated at a higher rate than the Advocate-General's large house in Park Street. He says he is unable to understand what the meaning of 'insufficient' is in this connection. I understand that if the Commissioners absolutely refuse to provide funds enough to keep the streets clean, or to perform the other duties imposed on them under this Act while the wealth of the municipality is amply sufficient to provide those funds, in that case their assessment would be insufficient. This will clear up the Hon'ble the Advocate-General's doubts as to the sense in which these words are used in this section. Then as to what the Hon'ble MAULVI ABDUL JUBBAR said, it was not that rich men would have to pay more than poor men, but that the habit of Muhammadans living with a certain ostentation while in fact they are poor, will lead to their being taxed as if rich, and that a Muhammadan, whose income is barely sufficient to maintain him, may, in consequence of that ostentation, be assessed at a higher rate than a Hindu millionaire who contents himself with a *dhoti* and an umbrella. The hon'ble member who has pointed out the inconsistency of appointing an Assessor in consequence of insufficient or inequitable assessments made by the Commissioners, and then allowing an appeal from that Assessor's assessments back to those very condemned Commissioners, has apparently scored a point, but this success rests on an assumption that the Commissioners in their first insufficient and inequitable assessment were acting with deliberate and resolute perverseness.

"I have not understood from the first inception of this amending Bill that any such suggestion was meant to be implied or offered. The idea was that for various causes, ignorance, weak amiability, or a dozen other such deceptive and delusive reasons, they were led to make assessments which would not bear close scrutiny. But to say that they will afterwards stand to their doubtful assessment, when its inadequacy has been pointed out by the Assessor, and when all the

materials for the assessment are brought before them, is to impute to the Commissioners a wilful perverseness which, though it may be true, and others may have reason to suggest, I myself do not suggest or believe. Therefore it does not appear to me that there is anything so unreasonable in appointing an Assessor to correct an inadequate and insufficient assessment of the Commissioners of a municipality, and afterwards allowing persons desirous of appealing to appeal to those very Commissioners. Everybody, I think, has heard of the soldier who being condemned by Philip drunk, appealed to Philip sober; and here the appeal would be from the Commissioners uninformed to the Commissioners informed. While pointing out these few matters, it must not be supposed that I for one have the least approval or affection for this section of the Bill as it stands. I should have much preferred if the original provisions of the Bill as announced by the member in charge when introducing it had been firmly adhered to, and I believe it would have given more satisfaction throughout the country."

The Hon'ble BABU SURENDRANATH BANERJEE in reply said:—"After the exhaustive debate which has taken place, I am relieved of the necessity of replying at any considerable length. There seems to be some confusion in the mind of the hon'ble member to my right (MAULVI SYED FAZL IMAM). I need hardly say that there is a considerable difference between an Assessor appointed by the municipality of their own free will and accord and an Assessor forced upon an unwilling municipality by the fiat of the Government. The hon'ble member has no experience of a case where a municipality had to appoint an Assessor under orders from Government. I am perfectly certain that this section, if allowed to remain, would lead to considerable friction. Persons dissatisfied with the assessment made by the Commissioners will appeal to the Commissioner of the Division and the Magistrate of the District; explanations will be demanded from the Municipal Commissioners, and in this way considerable irritation will be produced where there should be no irritation at all. And not only this. The section will lead to the creation of an *imperium in imperio* in many municipalities—a very undesirable state of things. Under the circumstances, I hope the amendment will be accepted by the Government."

The Hon'ble MR. BOURDILLON said:—"With the permission of the President, I wish to make two remarks. I was about to say that two of the hon'ble members—the Hon'ble MR. BONNERJEE and the Hon'ble MR. COLLIER—appear

to have fallen into error in failing to notice that in section 40 no power is given to the Assessor to hear appeals. The only powers conferred upon him are powers of assessment. That was one remark. The other is, that the Hon'ble MR. BONNERJEE also failed to notice that the revision of assessment under sections 113 and 116 would ordinarily proceed from appeals filed by Assessees who are suffering from excessive assessments; whereas the employment and the operations of the Assessor would necessarily result only from inadequate and insufficient assessments. The revision of the assessments in these two cases would therefore start from entirely opposite and distinct poles."

The Hon'ble MR. COLLIER said:—"The words in section 40 are 'all the powers of assessment,' and the words in section 113 are 'shall apply to the Commissioners to review the amount of assessment,' and I should have thought that to review the amount of assessment is clearly one of the 'powers of assessment.'"

The Hon'ble THE PRESIDENT said:—"If there is any discrepancy between the wording of any amendments and the section in the Act, we shall have an opportunity of bringing them into harmony with each other in the time which will elapse between the final discussion of the clauses and the passing of the Bill. Any amendment which may not be in accordance with our meaning, and not calculated to carry out the intentions of the Council, may be corrected on that occasion, and be brought into harmony with the provisions of the Act. I have only to express my entire agreement with what the Hon'ble the Legal Remembrancer has said with regard to the two important objections which were brought forward. He has stated precisely the causes which led to the inception of this section. It was found by inspecting officers that in some cases the valuations were unfair, the houses and property of the Chairman and Vice-Chairman being often assessed at low rates, while those of other members of the community, of very inferior value, were assessed at high rates. This is what the Government considered inequitable, and those are the kind of cases in which the Government would feel bound to interfere. Exactly in the same way, if the expenditure of a municipality is notoriously insufficient for the comfort of the inhabitants and the preservation of health, and if the municipality can bear higher taxation, but the Commissioners are unwilling to impose what is necessary, that also is a case in which the Government might consider that the assessment was insufficient and feel bound to interfere.

"With regard to what fell from the Hon'ble MR. BONNERJEE, I have to say that his remarks are welcome as showing how little the section which we propose to pass is open to the charge of being drastic or subversive of the powers of the Commissioners. We have not attempted to make a root and branch clearance of the cases in which the charge of insufficiency or inequity may be brought, or to take steps to bring the assessment absolutely up to what may be considered by impartial people to be fair. We have taken a middle course, and hope that it will prove sufficient. If it does not, it is possible that on a future occasion, when the Act comes before the Council again, my hon'ble friend will think it his duty to bring in a provision more drastic, possibly like the one first framed by the Government, and which is now considerably modified in order to meet the objections taken to it."

The Motion being put, the Council divided:—

Ayes 7.	*Noes* 10.
The Hon'ble Mr. Stuart.	The Hon'ble Mr. Womack.
The Hon'ble Maharaja Jagadindra Nath Roy of Nator.	The Hon'ble Maulvi Syed Fazl Imam Khan Bahadur.
The Hon'ble Mr. Bonnerjee.	The Hon'ble Mr. Wilkins.
The Hon'ble Maulvi Serajul Islam Khan Bahadur.	The Hon'ble Mr. Buckland.
The Hon'ble Mr. Ghose.	The Hon'ble Mr. Collier.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Maulvi Abdul Jubbar Khan Bahadur.
The Hon'ble Sir Charles Paul.	The Hon'ble Mr. Bourdillon.
	The Hon'ble Mr. Lyall.
	The Hon'ble Sir John Lambert.
	The Hon'ble Mr. Allen.

So the Motion was lost.

The Hon'ble MR. BOURDILLON said:—"Since this Bill was printed, an amendment moved by the Hon'ble BABU SURENDRANATH BANERJEE has been passed empowering the Commissioners to appoint an Assessor under section 46 of the Act; it is therefore necessary to make an amendment in section 40 of the Bill by inserting after the word 'inequitable' the first time that it occurs in section 111A, the following words:—'and if the Commissioners have not appointed an Assessor under section 46 as amended.' This is merely an amendment of a verbal character and will doubtless be agreed to without discussion."

The Motion was put and agreed to.

[*Mr. Collier; Babu Surendranath Banerjee.*]

The Hon'ble MR. COLLIER moved that the following be added to section 40 of the Bill:—

"Such order shall fix the pay of the Assessor and the cost of his establishment; and such pay and cost shall be paid monthly by the Commissioners."

He said:—

"The necessity for this amendment appears to be obvious, and I do not think it necessary to submit any explanation of it."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I beg to oppose this amendment, which I do not consider to be so very obvious as not to need any discussion, or at any rate a word of protest from me and other hon'ble members who are representatives of municipal bodies. The amendment is uncalled for and unnecessary, is opposed to the tenor of the Act, and, I venture to add, subversive of the principles of local self-government. Under section 61 of the present Act, no appointment of which the salary is Rs. 200 or upwards a month, shall be created or abolished without the sanction of the Local Government; and the second clause of that section enacts that no person shall be appointed or dismissed from an office the salary of which is Rs. 100 or upwards without the sanction of the Commissioner of the Division. But this is not all. The appointment will have to be provided for in the Budget, and the Budget will have to be sanctioned by the Commissioner of the Division. Thus sufficient powers of check and control are provided, and the amendment is absolutely uncalled for and unnecessary.

"The difference between the position taken up by the hon'ble mover of the amendment and that which I would ask the Council to accept is this: The hon'ble member wants to deprive the Municipal Commissioners of the power of initiation in fixing the salary of the Assessor. The power of revision is there already vested in the Commissioner of the Division or the Local Government according to the salary to be paid to the Assessor. Further, I hold that this amendment is inconsistent with the tenor of the Act. I presume it will be admitted that the Vice-Chairman, or the Secretary, or the Health Officer is a higher officer than the Assessor, yet the Commissioners may appoint any of these officers and fix his salary and the cost of his establishment. Why should the Assessor be singled out for exceptional treatment? Why should his pay alone and the cost of his establishment be fixed by the Local Government?

Your Honour observed the other day that we should assume that the Commissioners will act reasonably, and you addressed that remark in connection with this very matter which we are now considering; that is not an unfair assumption to make, and it runs through the whole system of local self-government. For these reasons, I feel it my duty to oppose this amendment and to enter my protest against it."

The Hon'ble MR. GHOSE said:—"I also think it necessary to oppose this motion. The hon'ble member for the Corporation has just pointed out that the Government possesses all the powers of control and authority that are at all necessary. If the salary proposed to be given to the Assessor by the Municipal Commissioners is insufficient, the Commissioner of the Division and the Local Government can always see that a substantial and adequate salary is given. On the other hand, I think that the Commissioners know their own resources, and the presumption is, that they ought to be the best judges in fixing the salary of their own servants, subject to revision or control on the part of Government. I can see no necessity for this amendment. If the Government or the District Officer is to interfere in all these little matters of detail; if the Commissioners are to have no voice in such matters; if the salary of the Assessor is to be fixed by superior authority, whose orders they are bound to obey, a salary which may be beyond their means and which to that extent would swallow up funds which would otherwise be available for the purposes for which municipalities are called into existence, I venture to think that municipal institutions would be reduced to little more than a sham."

The Hon'ble SIR CHARLES PAUL said:—"I supported the last motion, and now that motion is lost, and section 111A has become law. I think the present amendment is absolutely necessary to make the assessment effective. What is the good of empowering the Government to appoint an Assessor when the Commissioners may, if they choose, give him an altogether inadequate salary? If the Government gives up this amendment, they may as well give up the section just passed, which empowers them to order the appointment of an Assessor against the will of the Commissioners."

The Hon'ble MR. BONNERJEE said:—"I do not see why, assuming it to be necessary that the Local Government should fix the salary of the Assessor, it should be called upon to say what the cost of his establishment should be.

Before its cost can be fixed, the nature and number of the establishment must be determined upon. Who is to do so? The Commissioners or the Local Government? So it seriously intended that the Local Government should in every case coming under this section determine whether the Assessor ought to have two peons or three, one muharrir or two, and so on. If it is, the work of the Local Government would be endless. Moreover, the amendment provides that the pay of the Assessor and cost of his establishment should be paid monthly by the Commissioners. Suppose the Commissioners are in the habit of paying their establishment quarterly, why should you compel them to pay the Assessor and his establishment monthly? I think the object of the amendment will be gained if only the pay of the Assessor is left to be fixed by the Local Government."

The Hon'ble MR. LYALL said:—"I would ask the hon'ble mover of the amendment in replying to the criticisms which have been made to state the reason for which he thought fit to propose this amendment. It appears to me that section 64 of the Act provides against the possibility of the Commissioners fixing an insufficient salary, so as to render the order of the Government inoperative. Section 64 provides a complete remedy for any default of the Commissioners, and it is unnecessary to provide a double remedy for the same omission. I therefore ask the hon'ble member to explain fully his reasons for considering section 64 insufficient."

The Hon'ble MR. BOURDILLON said:—"I wish to say, with reference to the argument that a sufficient power of control will be exercised by the Commissioner of the Division, that doubtless the Commissioner does control the Budget under section 76 of the Act, but if an Assessor is appointed in the course of the year, and irrespective of budget provision, as may well be the case, then neither the Commissioner nor the Local Government will have any power of interference in respect to the salary which the Municipal Commissioners may determine to pay to such Assessor unless power is given to lay this down in the order of appointment. Secondly, the Government will have no voice in the matter under section 61, unless it is proposed to pay the Assessor Rs. 200 or more per mensem, and as the basis of this discussion is that the Commissioners will fix the pay of their Assessor very low, practically Government will have no opportunity of interference. Therefore, if an Assessor is to be appointed at all, power should be taken to fix his salary."

The Hon'ble MAULVI SYED FAZL IMAM KHAN BAHADUR said:—"I think the remark made by the Hon'ble MR. BONNERJEE is a very proper one. The pay of the Assessor may be fixed by the Government, but it is desirable that the settlement of the details of the establishment of the Assessor should be left to the Municipal Commissioners. I hope, therefore, that the Hon'ble MR. COLLIER will make this concession."

The Hon'ble MR. COLLIER in reply said:—"It appears to me that this amendment is absolutely necessary, and I am surprised that any one should object to it. Section 111A assumes that the Local Government will order the Commissioners to appoint an Assessor against their will. They do not want an Assessor, and the Government orders them to appoint one. Under these circumstances, are the Commissioners to be left to fix the pay of the Assessor and the cost of his establishment? They may in that case fix his pay at five rupees a month and a similar amount as the cost of his establishment, and thus render the whole order inoperative. With reference to what fell from the Hon'ble MR. LYALL, I cannot see anything in section 64 of the Act which will meet the case. That section only applies to cases where there has been a distinct default in the performance of a duty, and not to any case where there is room for a difference of opinion. There might clearly be room for a difference of opinion as to what the salary of the Assessor should be, and if the Commissioners fix an inadequate salary, that cannot be considered to be a non-performance of a duty under section 64."

The Hon'ble THE PRESIDENT said:—"In putting this amendment to the vote, I have only to say that if the Hon'ble MR. BONNERJEE had framed and laid before the Council an amendment having for its object the omission of all reference to the cost of establishment, I should have been prepared to accept it. I do not think it is absolutely necessary to have such a power, and the omission of those words might remove the impression that the provision is a little too much of an interference with the authority of the Commissioners; but if hon'ble members will not take the trouble to study the subject and come prepared with amendments which they may think necessary, and will only be guided by happy thoughts which occur to them while the proposals, of which notice has been given, are under consideration, it is difficult to take the same advantage of their suggestions which the Council would have been glad to take if they had been thought out beforehand and presented according to the rules. With regard to

what fell from the Hon'ble MR. LYALL, I agree with the hon'ble mover of the amendment that section 64 is not suitable to the case, and I should be very unwilling to attempt to act under it. It is the most drastic section in the whole Bill. It is the very section my dislike to which led me to propose certain amendments and provisions in the original Bill, which were thought to be great alterations in the principles of Local Self-Government, and finding that they were so looked upon, I withdrew them. Section 64 of the Act is one under which the Local Government will never take action without extreme unwillingness, but as we are prepared in exceptional cases to appoint an Assessor, it seems only reasonable that his salary should at the same time be fixed by the Local Government."

The Motion being put, the Council divided :—

Ayes 12.	*Noes* 5.
The Hon'ble Mr. Stuart.	The Hon'ble Maharaja Jagadindra Nath Roy of Nator.
The Hon'ble Mr. Womack.	The Hon'ble Mr. Bonnerjee.
The Hon'ble Maulvi Syed Fazl Imam Khan Bahadur.	The Hon'ble Maulvi Serajul Islam Khan Bahadur.
The Hon'ble Mr. Wilkins.	The Hon'ble Mr. Ghose.
The Hon'ble Mr. Buckland.	The Hon'ble Babu Surendranath Banerjee.
The Hon'ble Mr. Collier.	
The Hon'ble Maulvi Abdul Jubbar Khan Bahadur.	
The Hon'ble Mr. Bourdillon.	
The Hon'ble Mr. Lyall.	
The Hon'ble Sir John Lambert.	
The Hon'ble Mr. Allen.	
The Hon'ble Sir Charles Paul.	

So the Motion was carried.

The Hon'ble MR. GHOSE moved that in section 22 of the Bill, after sub-section (*3*) of section 37K, the following proviso be added :—

"Provided further that, in the case of a municipality mentioned in the first schedule and not required to act conjointly with any other municipality or local authority, if within two months from the date of the publication of the particulars of any such scheme in the *Calcutta Gazette* under section 37F, a petition is presented to the Local Government by a majority of not less than two-thirds of the registered rate-payers of a municipality objecting to the compulsory introduction of such scheme into such municipality, the Commissioners thereof shall not be compelled to carry out such scheme."

He said:—

"This matter was fully discussed at the last sitting of the Council, and it will not be necessary to say anything more on the subject. I have conformed with the wishes of the hon'ble member in charge of the Bill by inserting the words which he suggested."

The Motion was put and agreed to.

The Hon'ble MAULVI SERAJUL ISLAM KHAN BAHADUR moved that after section 42 of the Bill, the following new section be added:—

"42A. In section 116 of the Act, the words 'nor shall the liability of any person to be assessed or rated be questioned', and the words 'or by any other authority' shall be omitted."

He said:—

"I may remind the Council that this matter has been the subject of much discussion in the High Court as well as in the subordinate Courts. There have been many cases under this section, but unfortunately the decisions have not all been uniform. I need not, however, take up the time of the Council by referring to all the conflicting rulings on the point. It will perhaps be sufficient if I refer to the latest case under this section, which is reported in the current number of the Indian Law Reports, Calcutta Series, page 319, in which the Chairman of the Barisal Municipality was plaintiff and Adya Sundar Mitter, defendant. In all the cases which have been brought under this section, it has always been contended on behalf of the municipality that section 116 is a bar to the entertainment of any suit against the Municipal Commissioners, and that the words are wide enough to bar any suit. The words of the section are:—'No objection shall be taken to any assessment or rating, nor shall the liability of any person to be assessed or rated be questioned, in any other matter or by any other authority than in this Act is provided.' The contention on behalf of the Municipal Commissioners is, that this section is a bar to the entertainment of any suit. On the other hand, it is maintained by the parties aggrieved, that it could not have been the intention of the Legislature to deprive the people of all remedy against any arbitrary action of Municipal Commissioners which is without jurisdiction and void. The rulings of the Courts have, as I have said, been inconsistent. In some cases it has been decided that these words are a bar to any suit; in others it has been held that they are not. In the last case which came up in the High Court before the Chief Justice

and Mr. Justice Beverley, after hearing Counsel, the learned Judges say:—'That being so, it is unnecessary to go into the legal question whether section 116 is sufficiently strong in its terms to bar the interference of Courts of Justice in cases in which Municipal Commissioners may have exceeded their powers under the Act, or acted illegally or without jurisdiction.' So that the question is left undecided. The effect of this decision being to leave the law in an undecided state, I think it is the duty of the Legislature to intervene and make the matter clear, and therefore I propose to omit the words set out in my amendment. The result will be that, as far as the question of the amount of assessment or rating is concerned, the adjudication of the Commissioners will be final; but if there be any question as to the liability to assessment, or questions which go to the root of the matter, persons aggrieved should have some remedy. I, therefore, hope the Council will see its way to accept my amendment."

The Hon'ble MR. ALLEN said:—"I think there can be no objection to this amendment being accepted. As I understand section 116 of the Act, the powers of the Commissioners being powers given by the law can only last as long as they keep within the limits which the law lays down for the exercise of those powers; and it is not, and never was and never could be, intended that the Commissioners should lay hold of a man who was walking through the municipality, levy an assessment upon him, and then plead that this man had no redress in a Civil Court. In fact the amendment does not, to my mind, in any way alter the actual state of the law as it at present exists, and therefore there can be no objection to the amendment being accepted, and I understand that the hon'ble member in charge of the Bill is prepared to accept it."

The Hon'ble MR. GHOSE said:—"The case of the Barisal Municipality is a forcible illustration of the necessity of efficient judicial check upon the action of such municipalities as may be tempted to spread the net of taxation beyond the limits of the law. I only regret that, instead of deciding the wider question, namely, whether any words in the section could possibly take away the jurisdiction of the Courts when the action of a municipality is shown to be utterly illegal and *ultrâ vires*, the learned Judges should have preferred to base their judgment on what with the utmost deference appears to me to be a narrow and doubtful ground, because, although in an earlier section a dispute regarding occupation is declared to be a ground on which an

appeal may be preferred to the Commissioners, and those words are not to be found in section 116, still it does seem to me that the words 'liability to be assessed' are wide enough to cover every imaginable question, be it a dispute as to occupation or anything else. But be that as it may, if the Council accepts this amendment, it will be a great improvement, and will place the law on a clear and intelligible footing. Municipal authorities and the general public will know their rights, and the Courts will be able to decide questions which may come before them without any difficulty."

The Hon'ble SIR CHARLES PAUL said:—"I think this amendment should be accepted. The meaning of section 116 is quite plain, that an assessment or rating made upon persons who are within the jurisdiction of the Commissioners should not be open to objection. It was never intended that any person outside the municipality could by force be brought within the municipality and rated. That was the view which the Chief Justice took in the last case. The amendment now proposed will make that clear. The other day the Council added three words to a section in the Port Commissioners' Act, 'landed by them,' to make the meaning clear, and in the same sense I think we should amend section 116 of this Bill."

The Motion was put and agreed to.

The Hon'ble MR. GHOSE moved that in section 43 of the Bill, in the first proviso, the words from the word "holding" to the word "business" be omitted, and that the following words be inserted between the word "the" and the word "it":—

"Moveable property is shown to the satisfaction of the Commissioners to belong to some person other than the defaulter."

He said:—

"Section 43 of the Bill attempts to mitigate the harshness of the existing law under which moveable property found in any house in respect of which default has been committed is liable to distress and sale whether such property belongs to the defaulter or to some other person. Section 43, as it now stands, proposes to grant relief in cases where any moveable property may be left in a shop or place of business for repairs or safe custody. I propose by this amendment to make the section more comprehensive, and the relief more

general. I can discover no difference in principle between property left in a shop and property left with a private friend: if protection is needed in the one case, it is equally needed in the other. If a friend of mine, on leaving the country for a time, left some furniture or other moveable property in my house, and if I committed default in respect of the rates and taxes payable on account of my house, it would be monstrous that his property should be liable to be sold on account of such default, although the Commissioners were perfectly satisfied that the property was not mine. Then, again, there is the still harder case of a new tenant coming into a house from which his immediate predecessor after having committed default has succeeded in escaping bag and baggage before proceedings could be taken. It seems utterly unjust that the moveable property of the new tenant should be liable to distress and sale, although he was in no way responsible for the default. Similar objections seem to have struck the Government of India, for in a letter addressed to the Secretary to the Government of Bengal in the Municipal Department by the Legislative Secretary to the Government of India, he says:—'The latter portion of the first paragraph of the proposed section 120A, commencing with the words "or of any moveable property belonging to any other person," appears to be open to the objection which was taken in Mr. Lyall's letter of the 17th June, 1892, to section 26 of the draft Bill therein referred to, viz., that it exposes one man to the risk of having to pay a debt due by another.' I think that is a very cogent objection, and I therefore desire the Council to adopt the principle recognized in the case of property attached in execution of a decree where a claim is made by a third person. The procedure in respect of such cases is prescribed by section 280 of the Civil Procedure Code, which enacts:—

'If upon the said investigation, the Court is satisfied that, for the reason stated in the claim or objection, such property was not, when attached, in the possession of the judgment-debtor or of some person in trust for him, or in the occupancy of a tenant or other person paying rent to him, or that, being in the possession of the judgment-debtor at such time, it was so in his possession, not on his own account or as his own property, but on account of or in trust for some other person, or partly on his own account and partly on account of some other person, the Court shall pass an order for releasing the property wholly, or to such extent as it thinks fit from attachment.'

"Even if you accept my amendment, there will still remain this cardinal distinction between the two classes of cases, that while in the case of a

judgment-debtor, the claim of a third person is to be decided by an impartial tribunal, in the case of an attachment by a municipality, the decision will remain in the hands of the Commissioners themselves, although they stand in the position of a creditor. I can conceive of no possibility of such a safeguard being abused, for the condition precedent is that the Municipal Commissioners themselves should be satisfied that the property is really the property of a third person. I do not wish to raise the general question, but I must say that I cannot approve of any system which makes a man a judge in his own cause, nor can I make an exception or even a mental reservation in favour of Municipal Commissioners. However, without raising that question, I simply propose that such protection should be granted to all persons who may be able to prove that the property which has been seized is not the property of the defaulter, but of a third person."

The Hon'ble MR. ALLEN said:—"Section 121 of Act III of 1884, which lays down the procedure under which arrears of taxes are to be levied, provides that they shall be levied by distress and sale of the moveable property of the defaulter wherever found, or of any other moveable property belonging to any person which may be found within the holding in respect of which the defaulter is liable to pay the tax. An amendment has now been proposed which will lead to this peculiar result. The body of the section provides that the property of any other person found within the holding shall be liable to distress and sale, but the amendment to the provision added in our Bill practically asserts the exact opposite of what is previously asserted in the body of the section. The amendment says that the moveable property of any one other than the defaulter is to be excepted, but the section enacts that such moveable property, when found within the holding, is to be liable to sale. The principle is no new principle. It has been in force in Calcutta from the first day that the Supreme Court exercised jurisdiction in matters of distraint for rent. It is perfectly well known that property found in the premises is liable to the landlord's claim of rent, or used to be so liable. The same provision has been in force in every Municipal Act passed for the mufassal since the very first. And it is found also in the Calcutta Municipal Act, and it is to follow the latter Act that the qualification is introduced into the Bill exempting property which has been left for repairs or safe custody with persons carrying on business. The proviso in the Calcutta Act originated, I believe, in circumstances connected

with the failure of Thomas Smith & Co., horse dealers in Dhurrumtolla Street. This exception was not found in the former Municipal Act, and the property of others standing at Thomas Smith & Co's. stables was seized by the Municipality on their failure for payment of taxes. Proceedings were taken by the owners to resist this, and when the Calcutta Municipal Act came up for amendment, this proviso was introduced to guard against a repetition of such action. In the Bill now before the Council, the wording of the Calcutta Act has been strictly followed. It is perfectly well recognized that the property of an innocent tenant is liable for taxes on the premises which he occupies, and which are left unpaid by the previous tenant, and it is the duty of a tenant entering on premises to make sure that all taxes have been paid up to the date of his entry. If he neglects to do so, he has only himself to blame if his property is seized. The liability to the tax is not of a personal character, but arising from the ownership or occupation of a holding. The law has from the first made the moveable property in a holding responsible for all rates then outstanding and due. The amendment before the Council can, by no possibility, be accepted as it stands at present. If this principle is to be introduced and the rate on a holding is to be regarded as a personal tax leviable from the individual, this section of the Act must be cut down and the provision in section 121 must be excerpted."

The Hon'ble SIR CHARLES PAUL said:—"This amendment, as has been pointed out by the Hon'ble the Legal Remembrancer, is certainly out of order, and as the section of the law stands it is no amendment of the Bill before the Council. The two provisos in the Bill are additions to section 121 of the Act, whereas the Hon'ble MR. GHOSE's amendment is an amendment of Act III of 1884, because it is under that Act that all moveable property is liable to distress and sale, and a right of action is given against the person on whose default the property is sold. These two clauses of the Bill are added merely to diminish the force of it with respect to one particular matter, namely, when the place in which the property is is a place of business. If the Hon'ble MR. GHOSE's amendment is introduced, then the words in section 121 must be struck out. I am not attempting to justify the principle that a man's goods may be taken for payment of a tax due by another. The law of distress has been modified here, so that you cannot now distrain the property of other persons, but still as the law stands, the amendment of the hon'ble member must be an amendment of the section of the Act and not of the proviso in this Bill."

The Hon'ble MR. LYALL said:—"In the enormous mass of correspondence and literature before the Select Committee, I failed to observe any demand on behalf of any single municipality or rate-payer for an alteration of the law in the direction now proposed. I do not think we are asked to amend the law on points in which it cannot be said that the law has worked unjustly or has damaged any one. I am, therefore, opposed to a motion like the present, which seems to be of a sentimental character, and not to be practically required."

The Hon'ble MR. GHOSE in reply said:—"I desire to point out to the Hon'ble and learned Advocate-General that he is somewhat misinformed as to the nature of my amendment. Section 121 enacts that any property found on the premises in respect of which default in the payment of rates is committed shall be liable to be attached. What is attempted to be done is, to regard all property found on the premises as the property of the defaulter; therefore, all property so found is, in the first place, liable to be distrained, but my amendment proposes that if it should be proved afterwards that some of the property which has been distrained is not the property of the defaulter, but of some third person, then that property should be released. My amendment, therefore, is not an amendment of the body of section 121, but of the proviso in the Bill. I go one step further than that proviso, and say that in every case where property is attached under section 121, if it can be proved to the satisfaction of the Commissioners that the property so attached is not the property of the defaulter, but of some third person, then it should be released. I do not think I am asking the Council to take any step which is opposed to the ordinary ideas of justice and fair play. As to what fell from the Hon'ble MR. LYALL, Municipal Commissioners are not likely to complain if they are given such large powers; nor is it from mere sentimental considerations that I propose this amendment. I say that when you are taking a step in the right direction by granting relief in certain cases, you will only be acting logically if you give the same relief in all cases."

The Hon'ble THE PRESIDENT said:—"Speaking on behalf of the Government, I may say that my sympathy is with the amendment, but I think we ought to be guided by the counsel tendered to us by our legal advisers, that it is not convenient to go in this Municipal Bill beyond what has been provided in the Calcutta Municipal Act, and what is now the Municipal Law prevailing in the

country. I would, therefore, suggest that the hon'ble member should not press his amendment."

The amendment was, by leave of the Council, withdrawn.

The Hon'ble MR. COLLIER said:—"Since I gave notice of this amendment, I have been considering the section somewhat carefully. The result is that I am not satisfied with the amendment proposed, and would ask permission to alter it. I would substitute the following for it:—

'After the first paragraph of section 142, the following shall be added :—

"In regard to carts not kept within the municipality, only such as are kept within two miles of it shall be presumed, until the contrary is shown, to be habitually used within it for the purposes of this section."'

"The amendment now proposed follows very closely the provision proposed by the original Select Committee. The object of the alterations made in it is to make it clear that the definition is exhaustive, and that all carts kept beyond the two miles' radius are exempted. Whether this was the intention of the original Select Committee, I do not know, but am now inclined to think it must have been. The enlarged Select Committee, however, did not understand the provision in this sense. They rejected it because they thought it left the case of carts kept more than two miles from a municipality unprovided for. Whatever the original meaning may have been, the alterations made in the clause leave no doubt as to its meaning now.

"I think this amendment is preferable to the other for the following reasons:—The number of times a cart visits a municipality within a month is a difficult fact to verify. The evidence on the subject will be that of the municipal servants and will not be trustworthy. On the other hand, the place where a cart is kept is a simple and easily-ascertained fact, in regard to which there can be very little room for dispute. Further, this amendment is more in accordance with the original intention of the section than the other.

"Habitually used means generally used, and a cart kept more than two miles from a municipality will not be generally used inside it but outside it. I believe that the abuse of the existing vague provisions of the Act is notorious. On this point, I will read an extract from the last report on the working of Municipalities in the Presidency Division:—'In Jessore several cartmen were arrested for evasion of the tax, and police were called in to prevent breaches

of the peace. (Parenthetically I may remark that the Chairman of the Jessore Municipality has reported that it is the practice there to consider carts as habitually used within the municipality, if they visit it four times in a month. It is hardly a matter of surprise that friction should occur under such circumstances.) There appear to be some very objectionable features in the taxation of carts, which appear to be often taxed not for plying regularly within a town, but for carrying agricultural produce to a bazar. In fact, many of the municipalities are not towns at all, but consist only of a bazar and a group of villages, with a large area of arable land, and I doubt much whether it was ever the intention of the Legislature that carts should be taxed only for coming into such places. A case is now before me in which a municipality, having by their taxation on carts driven trade to a place outside their limits, are applying to have their limits extended in order to include that place—an application which I do not view with favour, as they show very little in the way of administration, and make no attempt at conservancy in the area now under their control, and, therefore, are scarcely entitled to ask that more should be made over to them. In another case—that of Chanduria, in the district of Khulna—out of a total income of Rs. 2,300, Rs. 1,300 are raised by taxing the carts which bring in raw produce to a certain sugar factory. To the taxation of carts regularly plying in a town, which, I presume, is what was intended by the Legislature, I see no objection, but I do see considerable objection to the tax as it is actually levied, where in the first place there is no town, and in the second the carts are employed only on import into the place.'

"It seems clear that we are bound to enact some definition, and I think that the one I have now proposed is, on the whole, the best."

The Hon'ble MR. GHOSE said:—"I am entirely opposed to this amendment. It seems to involve great hardship to municipalities, as they will be bound to keep the municipal roads in order, notwithstanding that they are broken up by carts which, if this amendment is accepted, will pay no taxes. Only the other day the hon'ble member for the Chittagong Division and myself had the honour of receiving a deputation from the Municipality of Baidabatty. Those gentlemen informed us that they have a market which is held twice a week there, and no less than some three thousand carts come from various neighbouring villages with produce to this market. One can readily imagine the damage done to municipal roads by this long procession of three

thousand carts, and consequently a small fee is levied from each cart, which gives that Municipality an income of something like Rs. 6,000 a year. I venture to think that there can be no objection to the levy of such a fee; whereas, if we adopt the amendment of the Hon'ble MR. COLLIER, it will, by one stroke of the pen, deprive that Municipality of by far the larger portion of the income derived from such fees; and it seems that very few of these people have complained, and if there are any complaints of the character of those made in Jessore, I do not think such complaints ought to be listened to. The fees which are levied are an infinitesimal and microscopic fraction of the profits derived by the owners of these carts by bringing their goods to the market, nor is it fair that the rate-payers of a municipality should bear the whole burden of repairing and maintaining the roads, especially when it is remembered that there is no form of traffic more destructive to roads than loaded bullock carts."

The Hon'ble MR. ALLEN said:—"The amendment entered in the agenda paper against the name of the Hon'ble MR. COLLIER is one to which I have many objections. The amendment which has been substituted for it is, I think, hardly less objectionable. It is characteristic of a young legislator to wish to define everything, but there is nothing which an old Parliamentary hand dreads more than to have to define. I think we may rest content with the words 'habitually used' of the section in the present Act, and allow those who have to work it to put a meaning to the words. If any person is aggrieved, as I have no doubt that in the case of outside carts there is room for oppression, that person has his redress, but that is no reason to submit a still more vague form of words for the word 'habitual,' the meaning of which is more or less understood by every one. I can quite believe that there is no form of taxation in regard to which there is more oppression practised than the levy of the registration fee on carts not only throughout all the mufassal municipalities, but in Calcutta itself. And that numbers of carts not 'habitually used' therein are subjected to the fee. I found a Calcutta Inspector three miles out of Calcutta looking out for carts on which to impose the registration fee. The speech of the hon'ble member opposite (MR. GHOSE) advocates a system of taxation which reminds me strongly of the old days when the Barons used to send out their retainers to tax every one who passed by. In such proceedings there is a total disregard of the ordinary meaning of the words 'habitually used' by those who are charged with the levy of this tax; but the

fact that administrators are perverse and oppressive is not a reason for changing plain simple words for a very complicated and confused definition. I doubt whether we have any power to raise a presumption of the kind proposed by the amendment. The Bengal Council has no power to impose upon me, sitting as a Judge, a presumption of fact of this nature, and therefore, for a totally different reason from that which commends itself to the Hon'ble MR. GHOSE, I think it will be wiser to abandon the amendment and leave the section as it stands."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I must protest against some of the remarks which fell from the hon'ble member who has just spoken. The administrators of our municipalities have been declared to be perverse. I should like to ask—how many cases of perverse administration have been brought to notice? The hon'ble mover of the amendment has stated a case which occurred in the Municipality of Jessore. We know that the administration of the Jessore Municipality till lately was not the most perfect example of municipal administration, and therefore there is no wonder that what he stated did occur. I have some experience of municipal administration, and I challenge the Hon'ble MR. COLLIER to bring forward a substantial number of cases in reference to other municipalities which would prepare the ground for his amendment. [The Hon'ble MR. COLLIER:—"I could."] At any rate the cases are not before us. But however that may be, the present Act has been in operation for a number of years, the people are accustomed to it, and no case has been made out for a change. I hope, therefore, that the amendment will not be accepted."

The Hon'ble THE PRESIDENT said:—"I think the sense of the Council is decidedly against the amendment, and I would suggest to the hon'ble member to withdraw."

The amendment was, by leave of the Council, withdrawn.

The Hon'ble MAHARAJA JAGADINDRA NATH ROY OF NATOR moved that section 53 of the Bill be omitted. He said:—

"Section 200 of Act III of 1884, as amended by section 53 of this Bill, empowers the Municipal Commissioners to require the owners or keepers of tanks to re-excavate or to fill them up within a certain limited time. A

[*Maharaja Jagadindra Nath Roy of Nator; Mr. Lyall; Mr. Allen; Mr. Ghose.*]

single individual may possess a large number of tanks or pools within the same municipality, and if he has to re-excavate or to fill them all up with suitable materials at one time, it will involve an enormous expense, and will simply be ruinous to him. Under the provisions of this section, if the owner or occupier of pools or tanks is unable to carry out the order of the Commissioners, they may do the work and may retain the tanks in their possession until all the expense of re-excavating or filling them up is realized. This will be regarded by the public to a certain extent as the confiscation of private property, which is not at all desirable. I think the intention and object of this section is to improve the public health of the neighbourhood, but that purpose is amply served by section 200 of the Act. For these reasons, I beg to move that section 53 of the Bill be omitted."

The Hon'ble MR. LYALL said:—"Does the hon'ble mover of the amendment propose to omit the word 'well' also? His remarks did not apply to *wells*."

The Hon'ble MAHARAJA JAGADINDRA NATH ROY OF NATOR said:—"I have no objection to the word 'well' being inserted in section 200 of the Act."

The Hon'ble MR. ALLEN said:—"The section of the Bill, which the hon'ble mover of the amendment desires to omit is practically identical with the section which exists in the Calcutta Municipal Act, and as hon'ble members are anxious to hold up that Act as a model which all other municipalities should endeavour, at however great an interval, to follow, it will be wiser not to adopt the amendment now proposed. If a private person has a number of offensive tanks, it is perfectly right that he should be compelled to render them inoffensive, and if he fails to do it, it is for the general good that the Municipal Commissioners should do so; and when municipal funds have been appropriated to the purpose of removing offensive tanks and pools of water, for which private owners are responsible, it is also right that the expenditure so incurred should be recovered, and retaining possession of the improved tank or its site, is some small security for the recovery of the expenditure. I think we can do no better than to imitate the Calcutta Municipal Act."

The Hon'ble MR. GHOSE said:—"I desire to express my sympathy with this amendment. It seems to me that the real objection lies not to the cleansing

of tanks and pools of water, which is right enough. But section 53 of the Bill goes much further. It leaves to the Commissioners the discretion of deciding whether a tank is to be cleansed, or re-excavated, or filled up. Re-excavating or filling up a tank of any considerable size is a matter of very great expense, and as the hon'ble mover of the amendment says, if a person has the misfortune of being the owner of a number of tanks, and the Commissioners decide that he must re-excavate them, it might involve such enormous expense that it may amount to confiscation of his property. In this connection, I will read an extract from a letter of the Government of India, which says:—

'Section 35 of the former draft Bill appeared to the Government of India to be needlessly severe; but as now amended, the section has been made still more stringent. The amendment does not seem to be called for, and the clause as to forfeiture is, in the opinion of the Government of India, open to strong objection. The whole section requires re-consideration, particularly in respect of the following points, first, whether a mere occupier should be held liable at all in such cases, and, secondly, whether the option between re-excavating, or filling up, or cleansing should be left to the Commissioners (with or without appeal) or to the party concerned.'

"My hon'ble friend, the mover of the amendment, is supported by the high authority of the Government of India, and I hope the hon'ble member in charge of the Bill may see his way to accept the amendment, of course, with the exception of the provision relating to 'wells,' which stands on a different footing."

The Hon'ble SIR CHARLES PAUL said:—"I think there is serious objection to the amendment as it stands. Under the existing law, the Commissioners may require the owners or occupiers of any land within eight days to cleanse any water-course, private tank, or pool therein, and to drain off and remove any waste or stagnant water, which may appear to be injurious to health or offensive to the neighbourhood. No one can object to any of these things. Suppose the occupier should say he will fill it up, but the Commissioners say no you must re-excavate? I think the power conferred upon the Commissioners is too large. As to the latter part of the section, I think it right that if the municipality spends any money, they should recover it. But to compel a man to re-excavate when he wants to fill up, or to fill up when he wishes to re-excavate is, I think, hard. If the owner or occupier is allowed his choice, I have no objection. It should be left to his own judgment to do one or the other."

The Hon'ble Mr. Bourdillon said:—"I believe it is the intention of the existing law as it was of the Select Committee to allow the owner or occupier the option of cleansing or of re-excavating or of filling up, and as far as I understand the words of the section that is permitted now."

The Hon'ble the President said:—"With regard to the objection taken to the whole of section 53 of the Bill by the hon'ble mover of the amendment in the part of the Government, I think the section should stand. It seems to me quite reasonable that if the Commissioners are put to expense in doing what the owner or occupier ought to do, they should have the means of recouping themselves. And with regard to the objection of the learned Advocate-General, there is no doubt that the view he expressed is the view intended by the framers of the section, and that we should add words something to this effect: 'either to fill up or re-excavate, at the option of the owner or occupier,' and that the municipality should only step in when he refuses to do one or the other. I shall put the motion on this understanding, that if the motion of the hon'ble mover of the amendment is carried, the whole of section 53 will be struck out: if the motion is rejected, then at the next meeting we shall add words which may be necessary to secure that the re-excavation or the filling up shall be at the option of the owner or occupier."

The Motion being put, the Council divided:—

Ayes 5.	*Noes* 13.
The Hon'ble Maharaja Jagadindra Nath Roy of Nator.	The Hon'ble Mr. Stuart.
The Hon'ble Mr. Bonnerjee.	The Hon'ble Mr. Womack.
The Hon'ble Maulvi Serajul Islam Khan Bahadur.	The Hon'ble Maulvi Syed Fazl Imam Khan Bahadur.
The Hon'ble Mr. Ghose.	The Hon'ble Mr. Wilkins.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Mr. Buckland.
	The Hon'ble Mr. Collier.
	The Hon'ble Maulvi Abdul Jubbar Khan Bahadur.
	The Hon'ble Mr. Bourdillon.
	The Hon'ble Mr. Lyall.
	The Hon'ble Sir John Lambert.
	The Hon'ble Mr. Cotton.
	The Hon'ble Mr. Allen.
	The Hon'ble Sir Charles Paul.

So the Motion was lost.

The Hon'ble MR. GHOSE moved that section 55 of the Bill be omitted. He said:—

"If my motion is carried, the result will be that section 210 of Act III of 1884 will stand, instead of the new section which is proposed to be substituted for it. Section 210 proceeds on the recognized and intelligible principle of interfering with private rights on the supreme ground of the public safety. Section 55 of the Bill, on the other hand, makes quite a new departure. It proposes to confer the most ample and plenary powers on Municipal Commissioners to interfere not only on the ground of the public interests being endangered, but in the supposed interest of the private owner himself. The interests of the public are amply safe-guarded by section 210 of the existing Act, coupled with section 242 as amended by section 65 of the Bill, the result of that amendment being that the owner is forbidden to let his house for hire if it is in an unsafe or unstable condition; while section 210 provides against any danger to the public. But the result of passing section 55 of the Bill will be this: that if a person has a house surrounded by a large compound, so that the condition of that house can by no possibility be a source of danger to the public or to passers by, and although the owner does not let the house for hire, but lives in it himself, still the Chairman or Vice-Chairman of the Municipality, if he happens not to be on very good terms with the owner of the house—and there is a great deal of party-feeling in the mufassal—it will be in the power of that official to inspect the premises, and having discovered, or pretended to discover, some crack in a wall of the house—and there are few houses, not excepting public buildings, and certainly not excepting the High Court, which have not some cracks in the walls—he will be at liberty to call upon the owner to pull down his house within seven days; and if he fails to carry out that order, then the Chairman or Vice-Chairman, under section 175 of the Act, may proceed to pull down the house, and hold the unfortunate owner responsible for the expense incurred in doing so. And when it is remembered that the order under this section is final and not open to appeal to any independent tribunal, the Council will, by passing section 55 of the Bill, place a most terrible engine of oppression in the hands of an unscrupulous Chairman or Vice-Chairman.

"Besides, if you once depart from the recognized principle of legislation in these matters, where are you to draw the line? If you give this power, are you

going to authorize the Commissioners to order their Health Officer to pay domiciliary visits in order to see that nobody takes any unwholesome food, or to order the Constable of the beat to see that every person takes a certain amount of healthful exercise, and retires to rest at a particular hour? I venture to think that interference with the rights of private property is only justifiable on the principle of safe-guarding the interests of the public, and, as might be expected, that is the principle upon which the law of England is based. The section of the Towns Improvement Clauses, Act of 1847 (section 75), which corresponds with this section, says:—

'If any building or wall, or anything affixed thereon, within the limits of the special Act, be deemed by the Surveyor of the Commissioners to be in a ruinous state, and dangerous to passengers or to the occupiers of the neighbouring buildings, such Surveyor shall immediately cause a proper hoard or fence to be put up for the protection of passengers, and shall cause notice in writing to be given to the owner of such building or wall, &c., &c.'

"Therefore, the only safe and sound principle of legislation in this direction is the principle of protecting the public from danger. I think no case has been made out for departing from that principle, and allowing Municipal Commissioners to interfere at their own sweet will with the rights of private owners of property. I therefore move the omission of section 55 of the Bill."

The Hon'ble Mr. Collier said:—"I drafted the section, and it is as well I should say what I have to say in advance of the hon'ble member in charge of the Bill. The hon'ble mover of the amendment referred to section 75 of the Towns Improvement Clauses Act. You will observe that that Act goes further than this section which we propose to abolish. It gives the Commissioners power to take down a building which is dangerous to passengers and to the occupiers of neighbouring buildings. The inmates of dangerous buildings are dealt with in England under other Acts. There are three classes of persons to be protected in regard to dangerous buildings. These classes are the inmates of the building, the occupiers of neighbouring buildings, and passers-by, or the public generally. Section 210 gives no power to interfere when a building is dangerous to the inmates or to the occupiers of a neighbouring building. It may be about to fall on the heads of the inmates, or to bring down the neighbouring building, and yet the Commissioners are not to interfere. The Hon'ble the Legal Remembrancer will be able to inform you that there have been several cases in which references have been made

to him as to whether action could be taken under section 210 to prevent a house falling down on the head of the inmates. The answer in all such cases has been in the negative, section 210 only conferring powers to protect passers-by and the public. The hon'ble mover characterizes this section as a new departure. In the Calcutta Act, section 233 gives the Commissioners the powers which are proposed to be given by section 65 of this Bill. It provides that if any building be deemed by the Commissioners to be in a ruinous state, or likely to fall or to be in any way dangerous, they shall cause a hoard or fence to be put for the protection of passengers, and shall cause notice to be given to the owner and to the occupier, requiring them forthwith to take down, repair, or secure such building as the case shall require. It gives the Commissioners full discretion as to whether they are to require the owner or the occupier to take down the building or not. The same power is conferred in the Municipal Acts in other parts of India. In the City of Bombay Municipal Act, section 354 authorizes the Municipal Commissioners to compel a building to be taken down, for the protection of the inmates, or for the safety of the occupiers of neighbouring buildings, or to protect passers-by.

"Nothing can be fuller than the language of the Bombay Act. Then in the City of Madras Municipal Act, section 298 provides that if any building is in any way dangerous either to the inmates, or to the occupiers of neighbouring buildings, or to passers-by and the public generally, similar action may be taken.

"Other Municipal Acts also contain practically the same provisions. The Central Provinces Municipal Act, the Punjab Municipal Act, and the British Burma Municipal Act, contain similar provisions, but I do not think it necessary to read them all. I have shown that the Calcutta, Madras and Bombay Municipal Acts contain precisely the same provisions in this case. The hon'ble mover's remark, therefore, that section 65 of the Bill represents a new departure is quite unfounded."

The Hon'ble SIR CHARLES PAUL said:—"I do not know whether the hon'ble mover of the amendment has read section 210, the language of which appears more extensive than section 55 of the Bill. It provides that if any house, wall or structure shall be deemed by the Commissioners to be in a ruinous state *or in any way dangerous*, they may do such and such things."

The Hon'ble MR. GHOSE in reply said:—"My objection to this section is to the words 'dangerous to the inmates of such building.' I have no objection to the power given to interfere where the safety of the public or of passengers, or of neighbouring buildings is concerned, but I object to the Commissioners interfering with me as respects my own house, and saying to me when I am living in my own house, and there is absolutely no danger to the public, you must pull down your house. If it will commend itself to the learned Advocate-General, I would ask leave to alter the form of section 55 of the Bill by omitting the words 'inmates of such building,' and leave it to apply to the inmates of any other building."

The Hon'ble SIR CHARLES PAUL said:—"I certainly think that the inmates and servants of a building which appear to be dangerous should be protected. I prefer section 210 of the existing Act."

The Hon'ble THE PRESIDENT said:—"The hon'ble mover of the amendment spoke as if the only case that is intended to be provided, is the case of a person living in his own house, and he maintains that the owner has a perfect right to commit suicide and to slaughter the members of his own family and his servants; the Council will remember the cases of collapsed houses which occurred in Bombay, where the inmates had no connection with the proprietor of the house, save that they had to pay rent to him. We have as much right to protect the inmates of the house itself, as the passers-by on the road, from the collapse of the house. My feeling is, that the section we have in the Bill ought to stand."

The Motion was put and negatived.

The Hon'ble BABU SURENDRANATH BANERJEE moved that in section 59 of the Bill, in section 218, the words "two hundred and six" be omitted. He said:—

"Under section 206, a house which has been burned down or taken down for the purpose of repair, such house projecting beyond the regular line of the road or drain, may be required to be set back to the regular line of the road or drain. The section does not provide any penalty for non-compliance with the requisition that may be issued in this behalf, and it is proposed to correct this alleged defect in the law by section 59 of the Bill. To

me this appears to be a very hard measure—when a house is burned down, it is a great misfortune to the owner; the Commissioners take advantage of his misfortune and call upon him to put the house back, and under this section he will be liable to a penalty for not doing so. This does not commend itself to my notion of the fitness of things. So far as one can judge, section 206 has been inserted in section 59 of the Bill to bring about legal symmetry, but it appears to me that it is attended with practical hardship. Having regard to the fact that no administrative inconvenience has been felt, I submit that my amendment should be accepted."

The Hon'ble MR. BOURDILLON said:—"I do not think the Council will be affected by the sentimental argument, which the hon'ble mover of the amendment has brought forward. It is not the intention of the Bill to enable Municipal Commissioners to aggravate the misfortune of a rate-payer whose house has been burned down by fining him for not carrying out orders to rebuild it. The intention is only to place the section on a par with similar sections in the same part (Part V) of the Act. The words 'section two hundred and six' were added of set purpose, because, as the hon'ble mover of the amendment has pointed out, no sanction is provided in section 218 for the disregard of an order passed under section 206. The only difference between that section and other sections of a similar character for a breach of the provisions of which a penalty is prescribed under section 218, is that when a house has to be rebuilt, the Commissioners may order it to be set back under section 206, and in this solitary case may offer compensation. In the other cases no compensation is required, but the mere fact that compensation is to be awarded under that section is obviously no ground for saying that the person who receives an order passed for the general good may be at liberty to set it at defiance."

The Hon'ble MR. BONNERJEE said:—"I do not quite understand the meaning of this section. It says that in section 218 of the Act, the words 'two hundred and six' shall be inserted: in other words, it provides a penalty for non-compliance with the requirements of section 206. That section authorises the Commissioners to insist that a person, whose house is burned down, should set it back to the line of adjoining buildings. Is it intended that a person, who has received direction from the Commissioners to set back his house, but who does not re-build at all, should be liable to the penalty? That certainly is the

grammatical construction as I read the proposed section and section 206 of the Act. Why should not this matter be left to be dealt with under the building regulations?"

The Hon'ble MR. COLLIER said:—"I wish to point out that the order to be made by the Commissioners under section 106, will be an order to the owner of the house that if he does rebuild it, he must build it at a certain distance from the road. They will not order him to rebuild the house, and his not rebuilding it would not be an offence, but if he rebuilds it in a different position from that indicated in the order, that will be an action which it is intended to punish."

The Hon'ble MR. GHOSE said:—"I desire to point out that section 206 deals with the case of a house which, having existed before the Act is introduced into the municipality, the Commissioners desire to take advantage of the owner's misfortune to do what but for that misfortune they would have no power to do. Section 206 of Act III of 1884 is not coupled with any penalty, but I do not think that was an oversight, but was deliberately done, because in the latter part of the section it is provided that the Commissioners may pay reasonable compensation to the owner of the house if any damage is caused. Therefore the Legislature did not look upon the owner in this case as a wrong-doer, but simply empowered the Commissioners to take advantage of the opportunity to widen the road; consequently in this class of cases there is no reason why a penalty should be attached."

The Hon'ble SIR CHARLES PAUL said:—"There really must be some misconception of the meaning of section 206. It merely provides that where a house is burned down or taken down to be rebuilt, the border line of the house shall be set back. Section 59 of the Bill merely provides for an omission. Why should a penalty be provided for omitting to remove a projection or encroachment under section 204, and not for neglecting to put back a house to the line of road when it is going to be rebuilt? The one is as necessary as the other."

The Hon'ble THE PRESIDENT said:—"I understand that the only objection made to the inclusion of section 206 is that in section 59 there is already a provision in the law, and therefore there is no necessity for inserting that section. Where section 175 of the Act is in force, it provides that the Commissioners

may execute the work themselves. That obviously does not apply to the case under consideration: the Commissioners could not rebuild the house for the owner. The requisition is not that he should build, but if he does build he must comply with the requisition. The building regulations to which the Hon'ble MR. BONNERJEE refers, are only in force in about forty municipalities in the whole of Bengal. Sections 236—244 therefore we cannot fall back upon. It is obviously necessary that if the Commissioners do issue a requisition, there should be some power to enable them to carry it out, and therefore I think this amendment should be rejected, and the words 'section two hundred and six' should remain in section 59 of the Bill."

The Motion was put and negatived.

The Hon'ble MR. WOMACK moved that in the second line of sub-section (*3*) of section 237, after the word "house" the following words be added:—"any alteration from the plan submitted be made, by which." He said:—

"The object I have in view in proposing this amendment is not the protection of the owner of any property or house which is being erected or re-erected from penalty on account of any wilful breach of the building regulations, but the prevention of an injustice being imposed upon him in being compelled to alter a building which is erected in accordance with plans which have been approved by the Commissioners. It occasionally happens that plans are submitted and sanctioned which contain some breach of the building regulations. I submit that it is the duty of the Executive to thoroughly examine the plan before giving permission to build. Provided the plans and specifications are not departed from, I hold that the Commissioners have no right to cause any alteration of the building to be made afterwards, or any portion of it to be pulled down."

The Hon'ble MR. BOURDILLON said:—"This amendment does not seem to be a very important one, or to raise any question of principle. It will have the effect certainly, as pointed out by the hon'ble member, of protecting from interference persons who have commenced in good faith to build according to a plan wrongly sanctioned by the Commissioners. It is conceivable, however, that not only by departing from the sanctioned plan, but also by deviations from the sanctioned materials and so forth, the orders of the Commissioners

may be disregarded, and, if the amendment is carried, the Commissioners will be authorized to step in and interfere in only one class of cases. It is for the Council to determine whether they will confine the power of the Commissioners to one class of cases, or not."

The Hon'ble MR. ALLEN said:—"I think the amendment is somewhat in a wrong place. The new section 237 gives power to make rules in certain matters, and sub-section (*3*) provides that if any rule is violated, the Commissioners may require the building to be altered or pulled down. There is nothing about a plan in the section."

The Hon'ble THE PRESIDENT said:—"I think I may venture to say on behalf of the Council that the intention of the hon'ble mover of the amendment is to provide that when a building plan is sanctioned and the building is erected in accordance with that plan, it should not be open to the Commissioners afterwards to say that the plan was in violation of the rules; but I think the Hon'ble the Legal Remembrancer is right in saying that the place in which it is proposed to introduce the amendment is not the right place, the first reference to a plan being in section 238. I propose at the next meeting that we should adopt this amendment and introduce it in a place most suitable for carrying out the intention of the hon'ble member."

The further consideration of this amendment was postponed to the next sitting of the Council.

The Hon'ble MR. GHOSE rose to order. He said:—"I find that the hon'ble member, who represents the Trades Association, has an amendment on sub-section (*4*) of section 237 in regard to the same matter with reference to which I have also an amendment. I gave notice of this motion several days before the meeting of the Council on the 17th of March last. I did not receive notice of the motion which the hon'ble member intends to propose until the meeting of the Council on the 14th of April. I find on the agenda paper of the 17th of March my amendment finds a place, but there was at that time no amendment in the name of the hon'ble member. But on the agenda paper for to-day, I find the hon'ble member's amendment on the same subject as mine, but in a diametrically opposite direction has precedence of my amendment. I desire to know on what principle precedence has been given to the hon'ble member's amendment?"

The Hon'ble THE PRESIDENT said:—"In regard to the question put by the Hon'ble MR. GHOSE, I do not think there is any definite rule on which motions are arranged, and it will certainly be inconvenient always to arrange notices of motion according to the priority in which they are sent in. The Assistant Secretary attempts to arrange them according to the convenience of the subjects for discussion. In the present case, one hon'ble member proposes to omit the words 'at the request of the Commissioners;' another proposes to add to them the words 'at a meeting.' It seems to me that the motion to leave out the words should come first, because, if the motion is carried, then there will be nothing to which any words can be added. If, on the other hand, the motion is lost, then the motion to add the words 'at a meeting' comes in. Therefore the order in which these motions have been put in the list is the correct one, having regard to the convenience of the Council in discussing the subject."

The Hon'ble MR. WOMACK also moved that in sub-section (*4*) of section 237, the words "at the request of the Commissioners" be omitted. He said:—

"The building sections are to my mind among most important provisions of the Bill. They will if properly carried out contribute not only to the increase in the value of property, but also to the health and comfort of those who live in the municipality. I think therefore that the Local Government should reserve to itself the power of bringing these regulations into force in the event of the Commissioners failing to apply for their extension. I believe I am right in stating that the building regulations in Calcutta are in a manner permissive, that is to say, they are not embodied in the Act; they are governed by bye-laws having the force of law, adopted by the Commissioners themselves. I think it will be admitted that the building regulations in Calcutta are far from satisfactory, and we may assume that the Commissioners themselves are of this opinion, seeing that some months ago they appointed a Committee to reconsider them. I think I am also right in saying that although the Committee was appointed seven or eight months ago, the subject is beset with so many difficulties that the Committee have not yet ventured to take up the consideration of the matter. If this has happened in the Presidency town and in a municipality which is naturally supposed to be the most enlightened in Bengal, is it reasonable to suppose that we can expect better action in far less advanced municipalities in the mufassal; therefore I submit that the Government should reserve to itself the right of taking the initiative in the event of the Commissioners not themselves taking action."

[*Babu Surendranath Banerjee; Mr. Bourdillon.*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I must express my surprise at the hon'ble member who represents the Trades Association, bringing forward such an amendment. None of the official members of this Council have ever brought forward an amendment so drastic, and the hon'ble member's own speech affords the completest answer to the amendment he proposes. The building regulations are no doubt sanitary regulations of the greatest importance. In Calcutta they are not permissive, they are compulsory; they have been supplemented and added to by bye-laws passed by the Corporation under the sanction of the Government. That the administration of the building regulations is attended with considerable difficulty in Calcutta has been admitted, and a Committee has been appointed to re-adjust them on the lines that experience has taught. The question being so very difficult and complicated, it stands to reason that the representatives of the people ought to be permitted to deal with them, and that the Government should not force these regulations on an unwilling municipality. It strikes me that it would be exceedingly unwise to accept this amendment; and that the extension of these regulations ought to be brought about with very great care and deliberation, and that they ought not to be extended to any municipality, except on the distinct representation of that municipality; and that the Government ought not to take the matter out of the hands of the Commissioners and by its order impose these regulations on any municipality that may not be inclined to apply for them. I therefore hope and trust the Council will not accept this amendment."

The Hon'ble MR. BOURDILLON said:—"On behalf of the Government, I must state to the Council that it is not the intention of Government to support the amendment of the hon'ble member who represents the Trades' Association. The hon'ble member has forgotten I think what kind of municipalities exist in the mufassal, and does not sufficiently realise that they are still very far from that stage of development which would justify them in accepting the advanced provisions of section 237. As section 237 stands, its provisions cannot be extended to any municipality except at the request of the Commissioners, and considering what very stringent powers and very elaborate rules this section will enable the Commissioners to exercise and make, I think the provision in section 237 is a very wise and necessary one. I must therefore advise the Council to allow the Bill to stand as it is, and to reject the amendment before it."

The Motion was put and negatived.

The Hon'ble MR. GHOSE moved that in section 64 of the Bill, at the end of sub-section (*4*) of section 237, after the word "Commissioners", the words "at a meeting" be inserted. He said:—

"My motion relates to the same matter as the last amendment. The hon'ble member in charge of the Bill has already said that there is no intention on the part of the Government to take away the power now conferred on Municipal Commissioners to apply to the Government whenever they desire that any provisions contained in Parts VI—X of the Act ought to be extended to their municipality. It was never intended to repeal sections 220 and 221, and we all understood in Select Committee that the new and more elaborate sections framed in substitution of the present sections, were also to stand on the same footing, namely, that they were not to be extended, except on application from the Commissioners at a meeting. The Bill as printed after the final approval of the Select Committee does not contain the words 'at a meeting' after the word 'Commissioners', the effect of which would be to leave the power in the hands of the Chairman or Vice-Chairman, as the case may be. It was certainly not understood that these sections could be extended on the application of the Chairman or Vice-Chairman, and it was never proposed in Committee. I myself am inclined to believe that the omission of the words 'at a meeting' is a clerical error, and I apprehend the hon'ble member in charge of the Bill will find no difficulty in accepting this amendment."

The Hon'ble MR. BOURDILLON said:—"The Government has no objection to accept this amendment as far as regards this section. But with regard to what fell from the hon'ble member as to the effect of section 220, we shall hear more about that when the next amendment is brought forward."

The Motion was put and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE moved that in section 64 of the Bill, after sub-section (*4*) of section 237, the following proviso be added:—

"Provided that in the municipalities to which sections 237, 238 and 239 of Act III of 1884 have already been extended, so much of this section shall be deemed to be in force as may correspond with the provisions of those sections."

He said:—

"The building regulations in the Bill are of a very elaborate and complicated character, and they can only be extended to a few of the more advanced

municipalities, and are inapplicable to the majority of our municipalities. In about 30 or 40 of our municipalities out of a total number of 150, the building regulations under Act III of 1884 are already in force, Part VI of the Act having been extended to them. But under the provisions of the Bill, as now drafted, it occurs to me that the existing building regulations would cease to be in operation as soon as the present Bill has been enacted into law. The building regulations represent a step in advance, and I do not think the municipalities to which they have been extended ought to be allowed the opportunity of reconsidering their position and resiling from them. I do not think there will be any difference of opinion as regards the principle which underlies my amendment. If there should be any doubt as to the effect of the provisions of the Bill in regard to those municipalities to which the building regulations have already been extended, the question should be set at rest by the adoption of my amendment, which provides that the existing regulations will be in force in the municipalities to which they have already been extended."

The Hon'ble MR. BOURDILLON said:—"This matter is one which is not quite free from difficulty. A doubt has been suggested as to how far the new sections, which bear the same numbers as the old ones, will be in force in municipalities to which sections with the same numbers have already been extended. Section 229 of Act III of 1884 provides that no provision contained in this Part shall apply to any municipality unless and until it has been expressly extended thereto by the Local Government in the manner provided by the next succeeding section. Sections bearing the numbers of the sections in the Bill have already been extended to about 40 municipalities. The Bill before Council if passed into law will be merely an amending Act, and so there is no question of the rescission or cancellation of the old Act, or of substituting a new one for it; and I am advised that when section 239 for instance has been extended to a municipality, the new section 239, though it may contain very different provisions, is still in force there. I should like to have the advice of the legal advisers of the Government on this matter. Section 237 being a very advanced provision, has been placed first, and sub-section (4) of that section says that this section shall not take effect in a municipality until it has been specially extended thereto by the Local Government at the request of the Commissioners; as regards the remaining sections, the numbers of the sections

have been reduced by one, sections 237-240 being very much the same as 237-241, but the aggregate of the provisions is practically the same."

The Hon'ble MR. ALLEN said:—"In section 61 of the Bill there was an amendment of section 120 of Act III of 1884, which the Council accepted without discussion. The amendment consisted of the addition of the following proviso:—

'Provided that, except as is otherwise provided by this Act, in the case of any municipality to which all the provisions of any one of the Parts VII, VIII or IX of the Bengal Municipal Act, 1876, may have been extended, and provided that such provisions were still in force in such municipality immediately before the commencement of this Act, all the provisions of the corresponding Part of this Act, namely, of Parts VI, XI or X respectively, shall be, and shall be deemed to have always been, in force in such municipality without such provisions being expressly extended thereto.'

Saving clause.

"That seems to cover all the substantial part of the intention of the hon'ble member who is moving this amendment. The alteration in the numbers of the sections made in this Bill introduces an element of confusion into the matter. The relations between the amending sections Nos. 238, 239 in this Bill, and those in the existing Act are clear and obvious; but it appears to me that the amendment which the hon'ble member proposes, introduces an element of confusion and complexity into the understanding of the question, and it would be very much wiser to reject the amendment. If there are some few municipalities, as I believe there are,—I saw a list of some six of them—to which the provisions referred to in section 61 of the Bill have not been extended as a whole, it should be taken probably that the corresponding sections of this Bill are not in force in those few exceptional municipalities, but no difficulty can arise if the Commissioners of those municipalities apply to the Government, and get the corresponding provisions of this Bill extended to their municipalities. If this amendment is passed, there will be very great difficulty in understanding how the matter stands with reference to such municipalities. The new section 237, which will not come into force in any of the municipalities in Bengal, unless specially asked for, will, by the force of this amendment, be declared to be in force as far as it corresponds with the provisions of the existing Act. But the section does not correspond at all. It is a totally new section, and contemplates a state of circumstances very

different from those under the Act of 1884. It will, therefore, I think, be unwise to accept the amendment."

The Hon'ble BABU SURENDRANATH BANERJEE in reply said:—"I think the hon'ble member who has just spoken has indulged in a little hypercriticism, in commenting upon my remarks. The words 'so much of this' in my amendment are evidently a mistake. They should be 'so much of the provisions of the Bill.' If the hon'ble member had exercised a little of the legal ingenuity which he possesses, he might have seen that that was what was intended."

The Hon'ble MR. COTTON said:—"It seems to me that what we want is to ensure that the sections in the old law should remain in force until they are superseded by the provisions contained in the new Bill. I should say, although I speak with no authority as a lawyer, that it is more than doubtful whether the old sections can possibly remain in force after the new sections have become law. Not only are the sections themselves somewhat different, but their numbering has been transposed, and the section 237 of the Bill now before us, relates to a different subject-matter from section 237 of the existing law. Speaking under correction, therefore, I consider that the extension of the sections of the old law to a municipality will be invalid as soon as the new law is passed, and unless we provide—"

The Hon'ble MR. ALLEN rose to order. He said:—"The mover of the amendment having made his final reply, the hon'ble member is not now entitled to speak."

The Hon'ble THE PRESIDENT said:—"I did not consider the remark made by the hon'ble mover of the amendment to be his final reply. I look upon what he said as a mere interpolation to explain the intention of his amendment."

The Hon'ble MR. COTTON continued:—"I was suggesting that the Council should legislate to provide that the existing sections shall remain in force until the new sections are extended to a municipality which is affected by them. That seems to me to be a far simpler proposal than that of the hon'ble mover of the amendment, and to be the only way in which any building regulations at all can exist in the municipalities affected. It is most important that this point should be made clear. There is a risk of any one or more

of these municipalities, who neglect to apply to the Government to extend the new provisions, finding that the provisions of the old law do not continue to apply to them. Therefore, we shall be giving them an opportunity of backsliding, which is just what I apprehend the hon'ble member is not prepared to do. I am not ready at this moment to come forward with an amendment, but I think the matter deserves consideration, and would suggest that time should be allowed for the preparation of an amendment which would maintain the old sections in the case of such municipalities, until the provisions of the Bill now before us are substituted for them."

The Hon'ble THE PRESIDENT said:—"We are all agreed to carry out the views of the hon'ble mover of the amendment, but there is a difficulty in deciding upon the exact form of words by which that should be done. If the consideration of this amendment is postponed, the hon'ble member can, in the interval, with the assistance of the hon'ble member in charge of the Bill, and the legal advisers of the Government, settle the exact form of words which will be necessary, and bring forward a revised amendment at the next meeting of the Council."

The further consideration of this amendment was postponed to the next sitting of the Council.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that in section 64 of the Bill, the following be substituted for clause (*a*) of section 240:—

"any alteration or enlargement affecting two-thirds of any building."

He said:—

"Section 240, clause (*a*), provides that the expression 'erection of a house' includes any material alteration or enlargement of the house. The word 'material' is not defined, and I want to define it. In the definition I propose, I follow the lines laid down by the building byo-laws of the Calcutta Municipality, where bye-law number 1 (*e*) contains the following definition of a new building:—'Whenever any old masonry building has been taken down to an extent exceeding one-half, the rebuilding shall be deemed to be the erection of a new building.'"

The Hon'ble MR. BOURDILLON said:—"The Hon'ble the Legal Remembrancer, not long ago, advised a young legislator to avoid definitions, and I should like to repeat that advice. It seems to me that the clause is quite clear and specific

enough. The hon'ble member does not say how the two-thirds is to be ascertained, and I think we should do well to leave the question, whether the alteration is material or immaterial, to the decision of the local authorities."

The Motion was, by leave of the Council, withdrawn.

The Hon'ble MR. STUART moved that after section 72 of the Bill, the following section be inserted:—

"In the section 263, the words 'exceeding ten in number' shall be omitted."

He said:—

"This amendment does not involve any principle, but its adoption will greatly facilitate the municipal authorities in their endeavours to promote sanitation. The result of the working of section 263 is that practically the municipal authorities have no control over stables and cattle-sheds. I may take, as an instance of this, the municipality of Cossipore-Chitpur, one of the Municipal Commissioners of which asked me to visit the place, and I saw in one shed over 20 horses, and in one yard over 50 head of cattle. The municipal authorities are not able to enforce the taking out of licenses, because the proprietor states that only 10 or a less number belongs to him, the rest being apportioned among his servants. It was stated to me that at the time of the periodical fairs, over 2,000 cattle are collected in a small space within the municipality; but the municipal authorities have no power to compel the owners to keep these places clean, the consequence being that they are kept in a most filthy condition, and the refuse is not removed, but is allowed to fester in the sun or flow into wells, whence the neighbours draw their drinking water. The fee for registration is a very small one, the object being only to enable the municipality to enforce cleanliness. In Calcutta, any one who keeps animals for profit under section 235 of the Calcutta Municipal Act is obliged to take out a license; and I think that in the suburbs of Calcutta and in large towns, it is quite as necessary to take the same precautions."

The Hon'ble MR. GHOSE said:—"I do not see how the difficulty arises. Under section 263 the Commissioners seem to have ample powers. It provides that 'within such limits as the Commissioners at a meeting may determine, no milkman, cartman, livery stable-keeper or keeper of hackney carriages, shall keep horses, ponies, or cattle exceeding ten in number for the purpose of trade or business, except in a place licensed by the Commissioners'. The section does not

say anything with reference to such horses or cattle belonging to one person or more than one person. I think the Commissioners have ample powers for dealing with such matters, but if there is any doubt, it would be removed by adding the words 'whether singly or jointly' between the words 'shall' and 'keep.' If, on the other hand, you omit the words 'ten in number,' it might cause great hardship to particular persons, for there are many poor women who keep one or two cows and make their living by selling milk. Such cases ought not to be covered by this section. 'Milkman' includes 'milkmen.' When the aggregate exceeds the number ten, I think the section makes ample provision; but to make the section applicable to every person who keeps a cow, would involve hardships which are not called for under the circumstances."

The Hon'ble MR. BOURDILLON said:—"I think the Hon'ble MR. STUART'S amendment should be accepted. He says that the provisions of this section obstruct the Commissioners in maintaining in a proper sanitary condition places where cattle, horses, &c., are kept. With all respect to the legal knowledge of the hon'ble member who spoke last, it seems to me very doubtful whether in this case the singular does include the plural. It is not reasonable to suppose that the taking out of a license will be required in the case of a poor woman who keeps a cow for her support, and the Commissioners are not anxious to tax poor persons, but to obtain effective control over those who keep considerable numbers of cattle and yet just manage to evade the law as it now stands, it seems to me very unlikely that so large a sum as that provided in the section will be levied from any poor persons."

The Hon'ble SIR CHARLES PAUL said:—"It seems to me that it is not the case of singular and plural, but the aggregate number of cattle kept in any one place. Suppose any ten milkmen combine to keep nine head of cattle each, would they not come within the section?"

The Hon'ble MR. STUART in reply said:—"I can only say that this has proved an actual difficulty, and the difficulty is aggravated owing to the number of cattle brought together at certain times of the year. I would like the hon'ble member on my right (MR. GHOSE) to visit the *goala* bustee at Cossipore, where these 'poor women' each keep one or two cows. The bustees consist of a number of huts and cattle-sheds, and the condition of the place is not to be

described. The section provides for places outside the limits fixed by the municipality where these licenses would not necessarily be required."

The Motion was put and agreed to.

The Hon'ble MAULVI SERAJUL ISLAM KHAN BAHADUR moved that in line 4 of section 81 of the Bill for "words" the word "word" be substituted, and that the words "and cesspools" be omitted. He said:—

"I do not quite see the reason which induced the hon'ble member in charge of the Bill to include 'cess-pools' in Part IX of the Act, nor do I see any reason given in the Report of the Select Committee for the alteration proposed. It appears from paragraph 34 of the Report of the Select Committee that no alteration was intended. They said:—

'After careful consideration we recommend that the present system of levying fees for the construction and cleaning of privies and cess-pools may be left unaltered.'

"The impression left on one's mind in reading this paragraph is that it is not intended that there should be any alteration, but on a careful reading of the sections of the Act and of the Bill, it would appear that the inclusion of cess-pools in Part IX makes an important change, and indirectly gives the Commissioners power to impose additional fees on the rate-payers under that Part. As the law at present stands, under section 186 of the Act, the Commissioners are bound to provide for the removal of sewage out of the general fund. The word 'sewage' is defined in section 6, clause 17 of the Act as including the contents of cess-pools; so that the cost of clearing cess-pools is provided for out of the general fund. Now section 321 of Part IX gives Municipal Commissioners power to levy an additional fee, called the latrine-fee, and section 322 provides that such fees are to be levied solely for the maintenance of establishments for cleansing latrines, privies, &c. Therefore, if cess-pool is included in this Part, the Commissioners will have to provide for the maintenance of a larger establishment under that Part, and will have power to impose additional taxes on the rate-payers. I would leave the law as it stands, and therefore move this amendment."

The Hon'ble MR. BOURDILLON said:—"The hon'ble mover of the amendment has not, I think, given sufficient consideration to the fact that Part V, which provides for conservancy, generally applies to all municipalities, and

that Part IX, which applies to the cleansing and maintenance of latrines only, is extended to municipalities by the order of the Government on the application of the Commissioners. All that the Committee wished to do was to make the existing law clear. The words 'and cess-pools' have been included only to secure correspondence with the definition of sewage in section 6. The words 'privies and cesspools' have been substituted for 'latrines,' because it was generally thought that the word 'latrine' rather imports a public convenience, but by using the words 'privies and cesspools,' it will be made more clear that the provisions of this Part apply to private places. The hon'ble member will see that no great change is intended, and the Bill should be allowed to stand as it is."

The Motion was, by leave of the Council, withdrawn.

The Hon'ble MAULVI SERAJUL ISLAM KHAN BAHADUR also moved that in section 83 of the Bill the words "if there is no occupier or" and "and the provisions of section one hundred and ten shall be applicable" be omitted. He said:—

"Under the provisions of the present Act (section 322), the owners of holdings which have no occupier are not liable to pay the latrine fee. Reading the whole section, it would appear that under the existing law as it stands, such owners are not made liable to pay any latrine fee. The effect of the amendment made by the Select Committee is to make the owner liable to pay the latrine-fee in cases where there are no occupiers, only receiving a remission of half the amount under section 110. In paragraph 34 of the Select Committee's report, they say:—'We have allowed a remission or refund on account of vacant holdings. This shows as if the Select Committee are making a fresh concession to the owners of vacant holdings; but under the law as it stands, they are not liable to any latrine fee for vacant holdings. I do not see why owners should be liable to pay any latrine fee for vacant houses."

The Hon'ble MR. BOURDILLON said:—"The question between the Select Committee and the hon'ble mover of the amendment is, whether a latrine rate should or should not be levied from vacant holdings. The hon'ble member has overlooked one point, namely, that the latrine tax is not a fee for services rendered, but it is a rate on holdings. It was proposed and at one time strongly

pressed, that the tax should be a fee for services rendered, but the Committee decided that it should continue to be a rate on holdings. They have not therefore in this respect interfered with the existing law, which provides that the latrine rate should ordinarily be paid by the occupier, but where a house is occupied in severalty, the owner pays the rate, and recovers it proportionately from the several occupiers. The words to which the hon'ble member objects are intended to provide for the payment of the rate when a house is not occupied, and in making that provision we have followed the analogy of the house-rate, and we have followed out the parallel by allowing a partial reduction when the holding is vacant for any considerable time. When a house is vacant for sixty consecutive days in the year, the owner can apply and obtain a proportionate refund, or if he has not paid any rate, the appropriate amount will be remitted."

The Hon'ble MR. LYALL said:—"As a member of the Select Committee, I have a word to say. I voted for the section as it stands, because it seems to me a matter of expediency that the tax should not be allowed to fall off on account of houses being vacant. A portion of the establishment cannot be dismissed or discharged as a house becomes vacant, and, moreover, in most mufassal municipalities, sweepers have to be imported, and the establishment has to be maintained whether they are employed fully or not. I therefore voted for the remission of half the rate only in such cases, so that the proceeds of the tax might vary as little as possible."

The Motion was put and negatived.

The Hon'ble MR. GHOSE moved that in section 83 of the Bill, after sub-section (*4*) of section 322, the following proviso be added:—

"Provided that no such fee shall be levied in respect of any shop or place of business which does not contain any privies or cess-pools, when a fee under this Part is levied from the occupier thereof in respect of his dwelling-house within the same municipality."

He said:—

"My amendment also relates to the matter of this latrine tax. As a member of the Select Committee, I agreed to the compromise arrived at, although at first I was inclined to think that it was unfair to tax vacant houses where no service was necessary; yet, recognising that a particular establishment had to be kept up, for the purpose, I agreed to the compromise of requiring half the fee from vacant houses. But there is another class of cases which is covered

by my amendment, and in which there will be great hardship unless my amendment is accepted. It is the case of a shop-keeper who resides in his own house, and has a shop in another house. It does seem to me to be hard that a man should have to pay the latrine tax twice over, once for the house in which he resides, and again for his shop or place of business, although there is no privy or cess-pool in the latter. I think that whenever he is assessed in respect of his dwelling house, he should not be taxed for his shop or place of business in which there is no privy or cess-pool."

The Hon'ble MR. BOURDILLON said:—"The amendment seems to me, as a member of the Select Committee, to be conveniently reasonable, and I desire to support it."

The Motion was put and agreed to.

The Hon'ble MAULVI SERAJUL ISLAM KHAN BAHADUR moved that after section 85 of the Bill, the following new section be added:—

"85A. In line 5 of section 339 of the Act, between the word 'Commissioners' and the words 'may grant' the following words shall be inserted:—

'shall, as regards markets (already existing) at the time of the extension of this Part to the municipality, and in all other cases.'"

He said:—

"I am sorry I have to detain the Council with this amendment at this late stage; but it is after much deliberation and consultation with some of the most eminent members of the Calcutta bar that I have been induced to bring forward this motion. On a reference to Part X of the Act, sections 335 to 340, it would appear that the power of the Commissioners to grant licenses for markets is purely discretionary, and cases have occurred in which the Commissioners have exercised their purely arbitrary powers without due regard to the private rights of parties. The well-known case of the Motihari Municipality is an instance in point. In that case the Municipal Commissioners refused to grant a license to Messrs. Moran, the owner of an old and very valuable market, simply because they themselves had set up a rival market; and although Messrs. Moran obtained a certificate from the Chairman under section 340 to the effect that they had complied with the provisions of the law, still the Commissioners did not think it proper to grant a license. The result was that

Messrs. Moran were deprived of their market, and when they went to law, the Courts declared that they could not interfere. I would invite the attention of the Council to a passage in the judgment of Mr. Justice Pigot at page 333 of the Indian Law Reports (Volume XVII, Calcutta Series). The learned Judge says:—

'There is no doubt that the powers possessed by the municipality under the Part X of Bengal Act III of 1884 have been so used as to put an end to that market to the profit of a market established by the municipality under the authority of one of the sections of Part X of the Act; and the question before us is whether, under the provisions of Bengal Act III of 1884, power was conferred upon the municipality of doing those acts destructive of the plaintiff's property, and yet no remedy or no right was allowed by the Act to persons in the position of the plaintiffs in case of the Act being so used to the destruction of their property.'

"Their Lordships held that under the law as it at present stands, a person who is deprived of his property by the Municipal Commissioners under Part X has no remedy. I therefore submit that it is the duty of the Legislature to step in and remedy such a state of things, and on these grounds the amendment I have the honour to propose should be accepted."

The Hon'ble MR. BOURDILLON said:—"I may at once inform the hon'ble member that the Lieutenant-Governor has considered this matter, and read the case to which the hon'ble member has referred me—as well as another case, the case of the Madaripur Municipality—and the opinion of the Lieutenant-Governor is, that if the hon'ble member will substitute the words 'lawfully established' for 'already existing', there will be no objection to the amendment."

The Hon'ble MAULVI SERAJUL ISLAM KHAN BAHADUR said:—"I accept the alteration."

The Motion, as amended, was then put and agreed to.

The Hon'ble MR. GHOSE moved that in section 86 of the Bill, sub-section (*3*) of section 349B be omitted. He said:—

"This amendment deals with the question of fires and the action taken for preventing the spread of fire, and the last clause of the section runs thus:—'Any damage done in the exercise of a power conferred or a duty imposed by this section shall be deemed to be damage by fire within the meaning of any policy of insurance against fire.' It is a very rare thing for a dwelling-house, even in Calcutta, to be insured, and I am not aware that any house in the mufassal,

unless it be a factory or a mill, is ever insured. When we speak of pulling down houses to prevent the spread of fire we practically refer to thatched houses and huts which are never insured. Under these circumstances, I do not see the necessity for a clause of this kind, and it seems very doubtful whether this Council in amending the Municipal Act can indirectly alter the law as regards policies of insurance, especially as there is no necessity for it. I think the wiser course will be to drop this sub-section, and I should very much like to have the opinion of the learned Advocate-General."

The Hon'ble SIR CHARLES PAUL said:—"I am quite sure that we cannot legislate to declare that damage done in putting out a fire is 'damage by fire within the meaning of any policy of insurance against fire.'"

The Hon'ble MR. COTTON said:—"The point was considered when the Fire-brigade Bill was under consideration, and it was then decided to omit a somewhat similar section in that Act. I think there will be no objection to the omission of the clause in the Municipal Bill."

The Hon'ble THE PRESIDENT said:—"I am of opinion that the Council ought to follow the advice of the Hon'ble the Advocate-General."

The Motion was put and agreed to.

The Hon'ble THE PRESIDENT said:—"I thank the hon'ble members for their patience in sitting so long to finish this Bill. At the next meeting of the Council, after the wording of the Bill has been thoroughly considered, and any alterations made in grammar or other minor points, in order to make the amendments which have been accepted fit in with each other and with the rest of the Bill, I hope we shall be able to pass the Bill into law."

The motion No. 2 in the List of Business was postponed to the next sitting of the Council.

The Council adjourned to Saturday, the 28th instant.

GORDON LEITH,
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

CALCUTTA;
The 18*th May*, 1894.

Reg. No. 185G—300-23-5 94.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 *and* 1892.

The Council met at the Council Chamber on Saturday, the 28th April, 1894.

Present:

The Hon'ble Sir Charles Alfred Elliott, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble Sir Charles Paul, K.C.I.E., *Advocate-General*.

The Hon'ble T. T. Allen.

The Hon'ble H. J. S. Cotton, C.S.I.

The Hon'ble Sir John Lambert, K.C.I.E.

The Hon'ble D. R. Lyall, C.S.I.

The Hon'ble J. A. Bourdillon.

The Hon'ble F. R. S. Collier.

The Hon'ble C. E. Buckland.

The Hon'ble C. A. Wilkins.

The Hon'ble Maulvi Syed Fazl Imam Khan Bahadur.

The Hon'ble Surendranath Banerjee.

The Hon'ble L. Ghose.

The Hon'ble Maulvi Serajul Islam Khan Bahadur.

The Hon'ble W. C. Bonnerjee.

The Hon'ble J. G. Womack.

The Hon'ble J. N. Stuart.

COMPENSATION ALLOWANCE TO NON-DOMICILED EUROPEANS AND EURASIANS.

The Hon'ble Mr. Bourdillon replied as follows to the Hon'ble Babu Surendranath Banerjee's question regarding compensation allowance to non-domiciled Europeans and Eurasians, asked at the meeting of the 31st March last:—

"The number of non-domiciled European and Eurasian servants of the Government on the Bengal establishment who draw compensation allowance is 520. There is nothing in the records of Government to show how many of these are Europeans and how many Eurasians.

"The Lieutenant-Governor does not believe that there are any non-domiciled European and Eurasian employés appointed since 1879 whose appointments required the sanction of the Governor General in Council and have not received it. It is the duty of the Accountant-General of Bengal to draw attention to such cases should they occur through oversight, and the Lieutenant-Governor has received no application to this effect from him.

"The third part of the question is answered by what has just been said. As far as the Lieutenant-Governor knows, there are in Bengal no officers of the class indicated."

BENGAL MUNICIPAL ACT, III OF 1884, AMENDMENT BILL.

The Hon'ble MR. BOURDILLON moved that the clauses of the Bill to amend Bengal Act III of 1884, as amended by the enlarged Select Committee, be further considered for settlement in the form recommended by the Select Committee.

The Motion was put and agreed to.

The Hon'ble MR. BOURDILLON also moved that in section 7 of the Bill, after the words and figures "in section 15" the following be inserted:—

"After the word 'election', at the end of the first sentence, the words 'and the authority who shall decide disputes thereunder' shall be inserted."

He said:—

"The necessity for this amendment has been explained by a confidential memorandum, which was circulated at the beginning of this week, and it is therefore unnecessary for me to detain the Council now at any length. The object of the amendment is simply to obtain greater administrative convenience. I have already pointed out in the memorandum referred to that, under section 15 of the Act, power is given to Government to make rules as to the manner in which municipal elections shall be conducted, but nothing is said as to the authority by whom election petitions or disputes arising therefrom may be decided. Since the late general elections which have taken place all over the Province, many applications have been received both by Government and by Commissioners of Divisions, asking that certain election proceedings may be set

aside, but hitherto the policy of the Government, based upon the present state of the law, has been to decline to interfere, and to refer the parties to the Civil Courts. It is now suggested that an alternative and more summary procedure should be adopted, that Government should take power to decide these disputes summarily when moved to do so, and that with this object the Government should be empowered to appoint the Magistrate or such other person as they think proper to consider such petitions. It is not the intention of the Government to interfere with such jurisdiction as the Civil Court now may possess in regard to such matters, and apparently if any party is dissatisfied with the finding of the local officer, it will always be open to him to seek his fortune in the Civil Court. I trust that after this explanation the amendment may be passed without dissent."

The Motion was carried *nem con.*

The Hon'ble THE PRESIDENT said:—"Before calling upon the Hon'ble MR. GHOSE to move the next amendment which stands in his name, I wish to observe that at this stage of the proceedings of the Council, we ought not to admit any new contentious matter, and if any hon'ble member objects to any amendment which may be proposed, it should be withdrawn without discussion."

The Hon'ble MR. COLLIER said:—"I object to the following amendment, of which the Hon'ble MR. GHOSE has given notice, as it is not only unnecessary, but at variance with the Act:—

"That in section 55 of the Bill, at the end of section 210, the following proviso be added:—

'Provided that any person aggrieved by an order under this section may appeal to the Commissioners within seven days of the service of the notice upon him, and such appeal shall be dealt with in the manner prescribed by section 242A.'"

The Hon'ble THE PRESIDENT said:—"The objection will be considered when the amendment to which it relates is before the meeting."

The Hon'ble MR. GHOSE moved that the following proviso be added to section 15 of the Act:—

"Provided that nothing contained in this section, nor in any rules made under the authority of this Act, shall be deemed to affect the jurisdiction of the Civil Courts."

He said:—

"I do not apprehend that my hon'ble friend, the member in charge of the Bill, will find any difficulty in accepting this amendment, for I find that in the confidential memorandum, to which the hon'ble member referred, he said:—

'I am to disavow in the plainest terms all intention of interfering with any jurisdiction that the Civil Courts now possess. The design of the proposal is to provide for those who desire it a simple summary method of having their disputes settled, any person dissatisfied with the orders so passed being still at liberty to try his fortune thereafter in the Civil Courts.'

"This is also to be gathered from the speech which the hon'ble member has just made in proposing the amendment which has been accepted by the Council.

"My amendment seeks to give effect to the intentions of the Government, so that it may not be possible for any ingenious lawyer to create any doubt with regard to the intention of the Legislature. With these observations I submit my amendment to the Council, and I trust that the Government will see its way to accept it."

The Hon'ble MR. LYALL said:—"Will the Legal Remembrancer say whether there is any necessity for this amendment? No attempt is being made to bar the jurisdiction of the Civil Courts."

The Hon'ble SIR CHARLES PAUL said:—"The meaning of this amendment is that this Bill shall not give a right to the Civil Court, if such right does not previously exist. I think, therefore, that the amendment has been carefully worded, so as to give no offence."

The Motion was put and agreed to.

The Hon'ble THE PRESIDENT said:—"I will ask the Hon'ble MR. GHOSE to withdraw the following amendment, to which objection has already been taken by the Hon'ble MR. COLLIER:—

"That in section 55 of the Bill, at the end of section 210, the following proviso be added:—

'Provided that any person aggrieved by an order under this section may appeal to the Commissioners within seven days of the service of the notice upon him, and such appeal shall be dealt with in the manner prescribed by section 242A.'"

The amendment was accordingly withdrawn.

The Hon'ble BABU SURENDRANATH BANERJEE said :—"I have been in communication with the hon'ble member in charge of the Bill, and I understand that he has renumbered the sections relating to the building regulations, and the learned Advocate-General is of opinion that, having regard to the renumbering of the sections, the effect will be to keep the building regulations intact in those municipalities into which the whole of these regulations have been introduced. I was anxious that none of those municipalities should have the opportunity of resiling from the position which they have taken up in this matter, and which represents a step in advance in sanitation. On the understanding that the effect of the renumbering of the sections is to keep intact the building regulations in municipalities, to which the whole of these regulations have been extended, I beg leave to withdraw the following amendment which stands in my name :—

"That in section 64 of the Bill, after sub-section (*l*) of section 237, the following proviso be added :—

'Provided that in the municipalities to which sections 237, 238 and 239 of Act III of 1884, have already been extended, so much of this section shall be deemed to be in force as may correspond with the provisions of those sections.'"

The Hon'ble MR. BOURDILLON said :—"By direction of the President the discussion of the above amendment was postponed at the last meeting in order that the question might be discussed informally by a sub-committee of the Council.

"It occurred to me during the discussion, and the Hon'ble MR. ALLEN has independently made the same proposal, that the difficulty may be most easily got over by re-arranging the new sections and following as closely as possible the numbering and order of the sections as they stand at present in the Act.

"Section 237 in the Bill, which is entirely new, was put first on account of its advanced character, but it can easily come in last. I have in the paper just laid before all hon'ble members re-arranged the numbering, and it will be found that the correspondence is now very close. I have also made some necessary verbal alterations.

"Taking the new numbering it appears that section 237 as it will now stand will include old sections 237, 238 and 239. The only change is (*a*) that 'six weeks' is substituted for 'fourteen days' as the period within

which sanction is to be given or refused, and (*b*) that 'compensation may be given in consequence of any prohibition,' &c. Both these changes are in the direction of further leniency and cannot be objected to by the rate-payers.

"Then section 238 (new style) embraces old sections 241 and 240. Here again six weeks take the place of fourteen days; that is the only difference.

"I propose to make a new section (239) out of the clause dealing with the period for which sanction is to hold good.

"New section 240 is a definition section, and new section 241, formerly 237, is intended for the advanced municipalities only, and it is specially provided by sub-section (*4*) that it shall not be extended to any municipality unless specially applied for.

"All the sections in the Act (237-241) hang together, and so do sections 237-240 of the Bill as now re-arranged. The aggregate of the provisions of the two groups is exactly the same except—

(*a*) that six weeks have been substituted for fourteen days,

(*b*) that compensation is to be payable in certain cases, and

(*c*) that sanction only lasts for one year.

"I feel sure that the mover of the amendment will now agree that his amendment may be withdrawn on the understanding that the order of the sections is re-arranged as above proposed.

"I stated in Council that there were only six municipalities* in Bengal in which there would be difficulty on the ground that these sections were extended to them in part only. I have now myself scrutinised the papers of these six municipalities, and find that as a fact it is only in two of them, viz., Ramjibanpur and Sassaram, that these sections are in force piecemeal. The cases of these two municipalities can easily be dealt with, and it can be explained to the Commissioners that they had better apply for a fresh extension of these sections.

* Jhalokati. | Bogra.
Kendrapara. | Ramjibanpur.
Mohespur. | Sassaram.

"The result is, that there can be no doubt except in two municipalities what sections are in force; in 38 all the building sections are in force, and in 109 none of them. This takes away all *doubt* and uncertainty. I have already shown that the changes are infinitesimal, and that such as there are make for

leniency, and I hope that on this explanation the Council will agree that the amendment has been properly withdrawn."

The amendment was accordingly withdrawn.

The Hon'ble MR. WOMACK moved that the following be added after clause (*g*) of section 238:—

"Provided that no rule under section 241, and no legal order shall be held to have been contravened by anything done in accordance with plans and specifications forwarded to the Commissioners under section 237, and not objected to by them."

He said:—

"This amendment embodies in terms which have been come to between the hon'ble member in charge of the Bill and myself since the last meeting of the Council the principle which Your Honour was good enough to accept at that meeting, and I trust it will meet with the approval of the Council. The proviso, I expect, will remain more or less a dead-letter, but it will have the effect of ensuring on the part of building committees a stricter examination of plans submitted to them for sanction, and may under certain circumstances prevent injustice being done; as therefore it will on the whole work for good, I hope the Council will see fit to accept the amendment."

The Hon'ble MR. BOURDILLON said:—"I have only one word to say, and that is, that the reference to sections contained in the proviso it is proposed by this amendment to add will have to be corrected, with reference to the renumbering which has already taken place in the numbers of the sections relating to the building regulations."

The Motion was carried *nem con.*

The Hon'ble MR. BOURDILLON said:—"In rising to propose four small amendments, it is necessary for me to explain that after the Council dispersed last Saturday, His Honour the President desired the Hon'ble MR. COLLIER, the Assistant Secretary and myself, to go through the Bill in order to make sure that it contained no grammatical or typographical errors. We discovered several errors in punctuation and other grammatical errors, which were not worth being put before the Council, but the four amendments which have been printed on a separate piece of paper seem to require mention as being somewhat more

important. I will first refer to section 40 of the latest version of the Bill, which amends section 98 of the Act. The section as it stands gives 'the Commissioners,' with the sanction of the Local Government, power to exempt from assessment any holding used for purposes of public charity. It occurred to the President that this important power should not be left to the Chairman or Vice-Chairman, who exercise all the powers of the Commissioners, but that it should be exercised by the Commissioners at a meeting. I conceive that there can be no objection to this proposal.

"The next section in regard to which an amendment has been prepared is section 43 of the Bill, which enacts a new section 111A. It will be in the recollection of hon'ble members that at the last meeting of Council the question was raised whether the powers given to the Assessor should or should not include the power of revision vested in the Commissioners by sections 113-115. I do not myself think that the question is open to doubt, but as a doubt has been raised, it seems better to remove it by enacting that the Assessor shall exercise all the powers of assessment vested in the Commissioners, except those under sections 113, 114 and 115. That makes the matter perfectly clear, and this amendment has already been incorporated in the Bill in anticipation of the sanction of the Council.

"The next amendment refers to section 72 of the Bill. This amendment refers to an oversight which has been brought to notice. Section 256A, which is enacted by section 72 of the Bill, says:—'Where notice is given of the intention to close any burial-ground under the last preceding section, private burial-places in such burial-grounds may be exempted from the notice, subject to such conditions as the Commissioners may impose in this behalf.' The privilege of having a private burial place exempted when the general cemetery in which it is included is closed is an important one, and it is conceivable that if the power to grant or withhold it were left in the hands of a Chairman or Vice-Chairman, serious complaints of injustice might sometimes arise. It is therefore proposed to insert the words 'at a meeting' after 'Commissioners,' so as to make the power exercisable only by the Commissioners as a body.

"The last of these amendments refers to section 78 of the Bill, which amends section 270 of the Act. It adds to section 270 the following clause:—'makes a roof or wall with grass, leaves, mats or other inflammable material

in contravention of the provisions of section 236.' The proposed amendment inserts the words 'or repairs' after 'makes,' and substitutes 'of' for 'with', so that the clause will now run thus:—'makes or repairs a roof or wall with grass, leaves, mats, or other inflammable material in contravention of the provisions of section 236.' The object of the amendment is merely to make section 270 correspond with section 236.

"These are the small amendments which the Council are asked to accept, and as they are all, I think, obviously desirable, I trust that there may be no demur to any of them."

The Motions were carried *nem con.*

The Hon'ble MR. GHOSE said:—"I beg to ask the permission of the President to move that in section 200, as amended by this Bill, option be given to the owners of private tanks or pools as regards all the three processes of re-excavating, filling up or cleansing them when such tanks or pools are declared by the Commissioners to be dangerous to health, or offensive to the neighbourhood. At the last meeting when this section was being discussed, I drew the attention of the Council to a passage in a letter from the Legislative Secretary to the Government of India to the Secretary to the Government of Bengal, Municipal Department (No. 17, dated Calcutta, 5th January, 1893), in which the Government of India point out that the whole section requires reconsideration, particularly as to whether a mere occupier should be held liable at all, and whether the option between re-excavating, or filling up, or cleansing should not be left to the party concerned. I have had an opportunity of consulting the learned Advocate-General, who thinks that the best way of meeting the difficulty would be to add a proviso to the section in these words: 'whenever an order is made by the Commissioners under this section, it shall be at the option of the owner either to re-excavate, or to fill up with suitable material, or to cleanse, &c.' This is the amendment which I would wish, with the permission of the President and the Council, to move."

The Hon'ble MR. ALLEN said:—"I entirely oppose this amendment on the ground that it is very dangerous to allow this option, which may have the effect of entirely defeating the original purpose of this section."

[*Sir Charles Paul; The President; Mr. Bourdillon.*]

The Hon'ble SIR CHARLES PAUL said:—"I think it will be a very great error not to accept this amendment. Every one is at liberty to have a tank in his own compound, and if the tank requires cleansing, the owner or occupier may be called upon to do so. To impose upon him the burden of re-excavating it or filling it up with suitable material will, I think, be very hard. In cases, however, where it is absolutely necessary to re-excavate a tank or to fill it up, it should be done by the municipality at its own cost after acquiring the land; but when the Commissioners are not prepared to do so, they should give the option to the owner of doing one of these three things. That is the view of the Government of India, I understand, in the instructions which have been received from that Government."

The Hon'ble THE PRESIDENT said:—"This is an amendment which was the subject of much consideration and discussion at a previous meeting of the Council, and having regard to the objection which has been taken by the Legal Remembrancer, I feel bound to stand by what I said at the commencement of this meeting that only non-contentious amendments should be passed. I therefore am obliged to say, under the ruling which I have laid down for the guidance of the Council, that I cannot put the amendment of the Hon'ble MR. GHOSE to the Council."

The Motion was accordingly not put to the Council.

The Hon'ble MR. BOURDILLON said:—"It now becomes my duty to move that the Bill, as it has been settled in Council, be passed. The Bill has been for so long a time before the members and the public, that I feel no compulsion to say many words upon this occasion. I will only congratulate the Council that this Bill, which has been on the stocks for more than three years, which has grown from 53 sections to 99 sections, which adds 37 new sections to the existing Act, and which has taken up a very large portion of the time of the Council during the present Session, is now approaching completion. It is idle to hope that a Bill of this kind will please all parties, or any one party. It has from the first been a measure of compromise, but I think the Council may congratulate themselves that they lent a ready ear to reasonable representations, and that whatever has been worthy of consideration has been very carefully considered.

Time alone will show what the effect of this enactment will be, but I, for my part, believe that the effect will be on the whole beneficial. I therefore move that the Bill, as settled in Council, be passed."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I feel that I cannot allow this motion to pass unchallenged. I cordially acknowledge that the Bill which is now before us, and which is about to pass, is a very different measure from the Bill which was introduced into this Council in July, 1892, and that it has been very considerably modified in deference to public opinion. But I state the bare truth when I say that the Bill, even as modified after the elaborate discussions which it evoked, does not contain a single concession to popular rights—that it does not contain a single provision which is calculated to broaden the institution of Local Self-Government, or to widen the sphere of rights and privileges already possessed by the local bodies. In this respect, it represents an unhappy departure from similar enactments in the past. Sir, I have had occasion to remark in this Council that the history of Municipal laws in Bengal is the history of progressive legislation. The Act of 1876 was a distinct improvement upon the earlier Act. The Act of 1884 was even a greater improvement upon the legislation of 1876. Can it be said that the Bill which is before us will be an improvement upon the Act of 1884, so far as the principle of Local Self-Government is concerned? It will promote administrative convenience; it will strengthen the interests of sanitation in the mufassal; it will perhaps place municipal taxation upon a sounder basis, but it will weaken the principle which lies at the root of the system of Local Self Government, and which has been happily described by a great authority as the government of the people by the people and for the people in regard to their local concerns. I gratefully admit that concessions have been made, but not in regard to crucial questions, save and except in the matter of sanitation, where the principle of local option has been allowed to supersede the principle of coercion. Where the Executive officers of Government are sympathetic and kindly disposed, I apprehend no difficulty: the municipalities will work smoothly enough. But where the officers are differently disposed, where they are the reverse of being sympathetic, friction will arise and the municipalities will not work satisfactorily. It seems to me to be a matter of infinite regret that advantage should not have been taken of this opportunity to place our municipal institutions upon a satisfactory footing—to relieve them of the risks of personal likes and dislikes—to

reduce to a minimum the element of personal government, and to ensure the future success of municipal self-government upon the basis of well-recognised rules which would make our municipalities independent of the influence of personal idiosyncracies."

The Hon'ble MR. GHOSE said:—"I regret that my hon'ble friend, the member for the Corporation, has thought it his duty to challenge the last motion in connection with this Bill. I agree with him in thinking that there are matters as to which the Bill is susceptible of improvement, but I cannot forget that legislation by a Legislature constituted even as this Council is must be to a certain extent a matter of compromise. I cannot agree with my hon'ble friend when he says that no concession has been made to public opinion, nor is it consistent with his own admission that the amended Bill scarcely bears any resemblance to the Bill as originally referred to the enlarged Select Committee. I cannot forget that many concessions have been made and many a compromise arrived at out of deference to public opinion, and in consideration of the objections made in the Select Committee and in this Council. We have moved our amendments and made our protests whenever we considered that any section of the Bill was legitimately open to criticism or protest. Some of our amendments have been carried, some have been accepted with modifications, while others have been lost. I regret quite as much as my hon'ble friend that all our amendments were not successful. But having already recorded our protest against those sections of the Bill which seemed objectionable to us, I do not conceive it to be my duty to oppose the Bill as a whole including all our own amendments, and although it contains some provisions that are positive improvements upon the existing law. Therefore I do think it is an unwise proceeding on the part of my hon'ble friend to oppose the passing of the Bill, merely because certain amendments which were moved by the hon'ble member or by myself, or by other hon'ble members with whom we have the pleasure of acting in concert, were not carried. Under these circumstances, I think it is our duty at this stage of the Bill not to offer an uncompromising opposition, such as I understand my hon'ble friend to offer, but having made our protest in respect of the several amendments standing in our name, which have been rejected, now to accept the decision of the Council and let the Bill pass."

The Hon'ble MR. BOURDILLON in reply said:—"The hon'ble member who opposed my motion opposed it, I understand, on general grounds, and he did not

pause to say against what particular measure or part of the Bill his objections were strongest. However, anticipating that there would perhaps be some objection at the last moment to the passing of the Bill, I have been at the pains to jot down a few notes to show how far an allegation, if made, that the measure was retrograde and hostile to Local Self-Government, would be borne out by the facts.

"The sections of the Bill naturally divide themselves into three groups, viz., (*a*) those which deal with large questions of principle; (*b*) those which make administrative changes of a lesser character; and (*c*) those which are merely corrective, which repair omissions, give effect to the decisions of the Law Courts, recast the wording of old sections, and repeal those which are no longer necessary. The latter is, of course, far the larger group. It has constantly been asserted—and the latest assertion appears in the *Amrita Bazar Patrika* of two days ago—that the Bill represents a determined and long-sustained attack upon the principle of Local Self-Government and the powers of Municipal Commissioners. Nothing could be further from the truth, for the powers of the Commissioners have been greatly increased in very many ways, while they have been curtailed in one or two respects only.

"The administrative changes involving no particular loss or gain of power to either the Government or the party which calls itself the party of Local Self-Government are these:—First, the introduction of the drainage and water-supply sections (Bill section 23), which are so carefully balanced as to give to Government and governed equal powers; and, secondly, the extension of the franchise as provided for in section 7 of the Bill.

"The matters on which Government, on behalf of the rate-payers or for the better administration of the country, has felt itself obliged to intervene are few in number, and each is carefully safeguarded. First comes the power taken in sections 4 and 5 of the Bill to disestablish a municipality, or to alter its boundaries when it no longer fulfils the conditions which originally justified its creation; then follow the power to appoint Commissioners *ex-officio*, a small matter of administrative convenience (section 8), the delegation to Commissioners of Divisions of certain of the smaller powers of Government (section 21); the appointment of a special Auditor when the accounts are in confusion (section

33); and, lastly, the power to appoint an Assessor when it has been proved that the affairs of the municipality require it, and when the Commissioners will not move of themselves (section 43).

"On the other hand, the powers and responsibilities of the Commissioners have been advanced in many ways. They will now be able to order a survey (section 66) and to organise a fire-brigade (section 92). Their financial powers are increased by the provision that the Commissioners shall not finally pass orders on their Budgets till they have had an opportunity of replying to his criticisms (section 32), and their income may be considerably developed in several ways, *i.e.*, the maximum of the water-rate is increased to 7½ instead of 6 per cent. (sections 35 and 81). They may levy in the same municipality both the tax on persons and the rate on holdings (section 34); arable lands may now be assessed where the personal tax is in force (section 36); property in their temporary possession may be turned to pecuniary advantage (section 57); licenses may be issued at burning-ghats and burial-grounds (section 73), and the latrine rate may be levied from vacant holdings (section 88). Not less important are the larger powers of administrative control now confided to Municipal Commissioners. They may control the water-supply where its purity is suspected, even when private rights are affected (sections 56-57); they will exercise larger powers over ruined and dangerous houses, walls and trees (sections 58 to 60). Their powers in regard to building regulations may be greatly increased at their option (section 68), and they have been enabled to frame wider bye-laws and to enact rules of business for their own guidance (sections 93 and 96).

"Surely, Sir, these numerous and important provisions refute the allegation that this is a narrow and retrograde Government measure aimed at the development of Local Self-Government, and corroborate my assertion that it is on the contrary a carefully-considered and temperate enactment, dealing with acknowledged wants and difficulties, and framed to facilitate and improve, not to embarrass and restrict, Municipal Government in these Provinces."

The Motion being put, the Council divided:—

[*Mr. Buckland.*]

Ayes 14.	*Noes 2.*
The Hon'ble Mr. Stuart.	The Hon'ble Mr. Bonnerjee.
The Hon'ble Mr. Womack.	The Hon'ble Babu Surendranath Banerjee.
The Hon'ble Maulvi Serajul Islam Khan Bahadur.	
The Hon'ble Mr. Ghose.	
The Hon'ble Maulvi Syed Fazl Imam Khan Bahadur.	
The Hon'ble Mr. Wilkins.	
The Hon'ble Mr. Buckland.	
The Hon'ble Mr. Collier.	
The Hon'ble Mr. Bourdillon.	
The Hon'ble Mr. Lyall.	
The Hon'ble Sir John Lambert.	
The Hon'ble Mr. Cotton.	
The Hon'ble Mr. Allen.	
The Hon'ble Sir Charles Paul.	

So the Motion was carried.

RESETTLEMENT OF LAND REVENUE AND AMENDMENT OF BENGAL TENANCY ACT, VIII OF 1885.

The Hon'ble MR. BUCKLAND moved for leave to introduce a Bill to remove doubts which have arisen in connection with the resettlement of land revenue in temporarily-settled areas, and to amend the Bengal Tenancy Act, VIII of 1885. He said:—

"Mr. President, as I do not propose to offer any remarks at this stage, but will do so at a later stage if this motion is carried, I will now simply make the motion standing in my name."

The Motion was put and agreed to.

The Hon'ble MR. BUCKLAND also applied to the President to suspend the Rules of Business. He said:—

"I will say just one word in justification of this motion. The Local Government has only within the last nine or ten days received the permission

of the Government of India to introduce this legislation, and it is very desirable that the Bill should be read in Council, and published before the end of this Session of the Council, so as to give time for consideration during the time the Council will be in recess. It is therefore my duty to ask Your Honour to suspend the Rules, to admit of the Bill being read in Council at once."

The Hon'ble THE PRESIDENT having declared the Rules suspended—

The Hon'ble MR. BUCKLAND introduced the Bill and also moved that it be read in Council. He said:—

"Mr. President, I have now, Sir, to make such observations as I have to offer, as regards the Bill in my hands. I ought to explain, first, the circumstances under which the necessity for legislation has arisen. The Council may be aware that very large settlements of land revenue are in progress in these Provinces, especially in Orissa and Chittagong. I may mention that Chittagong contains 1,000 square miles, and about 250,000 tenants ; while Orissa contains something like 5,000 square miles, with 6,000 estates, and about one million tenants, whose rents have to be settled. It is obvious that the settlement of the rents of such an enormous number of people cannot be undertaken in a day or a month, or even within two or three years, the operations to be gone through being very considerable and requiring the greatest care. The land revenue settlement in Orissa and Chittagong, to which I have referred, will be falling in before very long ; in Orissa, in September, 1897, and in Chittagong some of the earlier taluks in 1898, and the later taluks in subsequent years. The settlement of land revenue, as every one in this room probably knows, depends upon the settlement of rents. It becomes therefore necessary in dealing with such an enormous number of people to undertake the settlement of rents at a reasonable time beforehand—in such time that they may be all completed and the records all written, so that the new rents and the new land revenue may come into force together on the expiration of the current land revenue settlement. While these proceedings have been in progress in the two areas I have mentioned, a question has been raised by the officers concerned as to the date on which the settlement of rents may be legally taken in hand.

"Questions of this sort have to be decided according to law, and the question was naturally referred to the legal advisers of the Government, namely, my

[*Mr. Buckland.*]

hon'ble friends the Legal Remembrancer and the Advocate-General. The Legal Remembrancer gave an opinion to the effect that, although all preliminary enquiries may be taken in hand whenever convenient, the earliest period when any raiyat can be called upon to consider the table of proposed rents, and acquiesce in or object to the rent entered against him is during the currency of the last year of the existing settlement. The Advocate-General said that no measures can be taken requiring tenants to appear and contest anything in the shape of rent, until after the expiration of the current settlement. The receipt of these opinions raised considerable difficulty, and I am not saying too much when I mention that a Conference was held with the legal advisers of the Government, and the Advocate-General to some extent modified his previous opinion, on it being pointed out to him what was considered by the Government to be the full force of the old Regulations VII of 1822 and IV of 1828, under which the land revenue settlements are being carried out. On his attention being drawn to those Regulations, that is, to certain portions of them, the Advocate-General expressed an opinion to the effect that when the term of engagement has been extended for one year beyond such term by six months' notice, immediately preceding the termination of such engagement, a revision of the settlement may be entered upon and commenced after this notice, and within the six months last mentioned, that is, resettlement is possible during six months before the expiry of the land revenue settlement. Obviously if all revenue resettlements could not be begun until six months previous to the expiry of the current settlement or until after the expiry of the settlement, it will be impossible to get all the work done, and to make the new rents and land revenue come into force on the expiry of the settlement.

"But it is contended by the Government that it is perfectly reasonable that such increased revenue as may be acquired by the settlement should be obtained from the expiry of the previous settlement, and on consideration of the old Regulations and the North-Western Provinces Land Revenue Act, XIX of 1873, which was based on the old Regulations, it appeared to the Government that this was a reasonable view to adopt. When Act XIX of 1873 was passed for the land revenue settlement of the North-Western Provinces, it was then expressly declared in Council—I have my finger on the reference—that the Act then passed was merely a consolidation of the old Regulations, which I have enumerated. By

[*Mr. Buckland.*]

this Act (XIX of 1873, sections 36-37) all that is necessary is, for Government to issue a notification to declare when a local area has been brought under settlement, and a local area shall be held to be under settlement from the date of such notification, and that notification immediately legalises all operations. But when we come to look at our own Tenancy Act, VIII of 1885, under which the rent settlement must be made simultaneously with the land revenue settlement, we come to an expression in section 101, clause 2(*d*), read with section 104, clause 2, that rents must be settled by the Revenue Officer when the settlement of the revenue is being made in respect of a local area.

"The question thus arose, what is the meaning of the words 'land revenue settlement is being made.' It is to meet that difficulty that the legislation on which we are now embarking has been proposed. The Advocate-General holds that the words 'is being made' shall be read to mean 'is about to be made,' or 'is being revised.' He holds, as I understand him, that if such words as I have mentioned are introduced into the Tenancy Act, then it would be legal for such rent settlements to be made some time before the expiration of the current land revenue settlement. In other parts of India no difficulty has been raised with regard to the land revenue settlement and the simultaneous rent settlements being made before the expiration of the current settlement. And I believed it has happened in other parts of India that the Local Governments have received severe censure from the Supreme Government for not entering in time on the resettlement of an area or district, whereby considerable sums of money have been lost to the estate, and considerable rents to the landlords in such areas.

"I trust I have made myself clear that the Local Government is anxious to do in this matter what is reasonable in the public interests in regard to the land revenue. The objection which has been taken has been regarded by the Government as a somewhat technical one; but as it has been raised by the legal advisers of the Government, it is impossible to ignore it, and it is proposed to adopt the simple method proposed by the Advocate-General to make things clear. The result will be that when a settlement of land revenue is to be made or is being made in respect of a local area, then under section 101, clause 2 (*d*), and section 104, clause 2, it will be incumbent on the Settlement Officer to resettle the rents upon which the land revenue depends.

[*Mr. Buckland.*]

"These are the remarks I have to offer with regard to the general scope of the measure. I have in doing so practically run over the greater part of the first section of the Bill. All that it is proposed to do by the first section is to insert the words 'is to be or' after the word 'revenue' in section 101, clause 2 (*d*) of the Bengal Tenancy Act. My learned friend the Advocate-General has informed me since entering this Council Chamber that it is quite unnecessary to say anything about the omission of commas in the section which can be done without any mention of them in the Bill. This little point can easily be rectified hereafter.

"I turn now to the second section of the Bill, which practically follows as a necessary consequence of the previous portion of the Bill. By section 110 of the Tenancy Act, when any rent is settled under Chapter X, it is laid down that the settlement shall take effect from the beginning of the agricultural year next after the final publication of the record. As I have said in the Statement of Objects and Reasons, the date of the agricultural year next after the final publication of the record will not necessarily be the same date as the commencement of the new revenue settlement. All that is meant by the first part of section 2 of the Bill is to provide that all fair and equitable rent settlements under section 104, clause 2, of the Tenancy Act, that is to say, rents settled when a land revenue settlement is in progress—not *all* rents settled under any part of section 104—shall take effect from the date from which the new revenue settlements come into force. I submit that this is a very obvious and reasonable provision, and I do not suppose there can be any serious objection to the first part of section 2.

"Then I come to the proviso of section 2, which is rather a long one, but comparatively simple. As I have intimated, it may be necessary to settle many of these rents at some considerable time before the current land revenue settlement expires, and the new settlement comes into force. It may, for instance, happen that in Orissa the settlement of rents may be going on now, whereas the land revenue settlement may not expire until September, 1897, and obviously a great many things may occur in the interval, such as a cyclone or flood or unexampled droughts, which may render it necessary and equitable to alter the rents settled some time previously. Therefore the proviso leaves it open either to the landlord or the tenant to apply on the ground of special circumstances

having occurred to have the settlement of his rent revised. The proviso also goes on to make it competent for a Revenue Officer, if so directed by Government, to revise such rents without any application being made. It is quite possible that these words of the proviso may be challenged, because, as is well known, it is one of the important features of the Tenancy Act that the settlement of rents is a judicial proceeding, and this proviso may be challenged on the ground that the Local Government will be interfering to set aside the settlement of rents made by its officers. I wish to say here that there is no intention whatever on the part of the Government to interfere on a large scale, and the chances are very great that, if the Government does interfere of its own motion to get revised such rents as have been settled, they will do so rather in the direction of a reduction of rent than an enhancement. But it is desirable that the Government should have such power.

"It often happens that landlords or tenants who would have a perfect right to appeal within thirty days to the Special Judge do not appeal, either through apathy, or indifference, or ignorance of their legal rights, and they similarly might omit to apply for a review under the power which it is proposed to give them under this proviso. It is therefore considered very desirable for the Government to possess this power, though it will be exercised with very great discrimination, and probably very seldom. But when you have these settlements going on in such great dimensions as I have stated, rents being settled in many places in a district at the same time by officers, some of whom perhaps have not very great experience and are comparatively new to such work, it becomes necessary for the Government to have full power to supervise, and, if necessary, to revise the proceedings of its own officers. I know that there is power on the part of the Government to appeal to the Special Judge, but that right has to be exercised within thirty days, and practically, through want of adequate means of supervision, it becomes very difficult for the Government to exercise that right of appeal within the specified time. I think therefore that it is not unreasonable, and may be very desirable, for the Government to have this power in their own hands. It would be a monstrous thing if, for want of a power to get them reviewed, rents settled by subordinate officers which are either notoriously low or oppressively high should, on the lapse of the right of appeal, be unalterable, and the local area become excited and disturbed, and

perhaps such riots occur as we have heard of lately in Assam. At any rate it is quite possible that circumstances may occur in which it may be desirable for the Government to interfere by way of review to put matters right before they become serious in any local area under settlement.

"There is at present a provision in the Tenancy Act which authorises the Government to order a special settlement in special cases, but that section (112) was framed for a state of things which might be held to be very serious. It was meant to take the place of the Agrarian Outrages Act of 1876, and was intended to be used as an extreme power for a state of circumstances of no ordinary character—cases where local disturbances have occurred or are likely to occur,—but the object of the words in the present proviso is to enable the Government to interfere at a much earlier stage to prevent any such scandal of either notoriously low rents or oppressively high rents being fixed, and such review, as I have said, would take place more probably in the direction of reduction than enhancement of rent.

"This power of review is, I am informed, in existence in other parts of India. In the North-Western Provinces and the Central Provinces, it is quite open to the Government to order a review of the assessment of revenue, possibly entailing a review of the rents that have been settled. The words which I propose to introduce are really only intended to extend to Bengal the principle which is in force in other provinces of India. Then the proviso goes on to say that the Revenue Officer or such officer as the Government shall select for the purpose shall take such application into consideration, and shall make such revisions of rent as may be fair and equitable, and make such corrections in the record as may appear necessary by such revision. The object of these words is merely to compel the Government officer to take action when applications have been made or he is directed to do so. The third section of the Bill is merely intended to give retrospective effect to the Bill, where the work of assessment has been already done. I think it is a very salutary provision, as it legalises any mistakes which have been made inadvertently under the reading of the law by the Executive Government, in regard to which certain objections have been raised by their legal advisers. It is merely a precautionary provision, and I think it an important one, which I commend to the Council.

"I think I have now exhausted all I had to say to commend this Bill to the notice of the Council. The intention is that the Bill should now

be published in the Gazette, and later on, if there is an autumn session, or as may be otherwise thought fit, it will be necessary to appoint a Select Committee to deal with the Bill, and to take into consideration such opinions as may be offered by any persons who may wish to submit a report to the Council. It is not considered desirable to appoint a Select Committee now, as the Bill has only just been introduced, and the members of the Council are now dispersing. I will therefore, with Your Honour's permission, merely move that the Bill be now read in Council."

The Motion was put and agreed to

The Bill was read accordingly.

The Hon'ble THE PRESIDENT said:—"I propose to ask hon'ble members to meet again in July next, when we hope to carry on this little Bill, and if we have received by that time sufficient replies, we may be able to push forward the Sanitary Drainage Bill. I do not think there is any other business which will be taken up in the summer session, and possibly it may be too early to take up the Drainage Bill at that time."

The Council adjourned *sine die*.

GORDON LEITH,

CALCUTTA; *Assistant Secretary to the Govt. of Bengal,*
The 31st May, 1894. *Legislative Department.*

Reg. No. 237G—300—7 6 94.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 *and* 1892.

THE Council met at the Council Chamber on Saturday, the 7th July, 1894.

Present:

The HON'BLE SIR CHARLES ALFRED ELLIOTT, K.C.S.I., Lieutenant-Governor of Bengal, *presiding.*

The HON'BLE SIR CHARLES PAUL, K.C.I.E., *Advocate-General.*

The HON'BLE H. J. S. COTTON, C.S.I.

The HON'BLE SIR JOHN LAMBERT, K.C.I.E.

The HON'BLE J. A. BOURDILLON.

The HON'BLE MAULVI ABDUL JUBBAR KHAN BAHADUR.

The HON'BLE F. R. S. COLLIER.

The HON'BLE C. E. BUCKLAND.

The HON'BLE C. A. WILKINS.

The HON'BLE MAULVI SYED FAZL IMAM KHAN BAHADUR.

The HON'BLE MAHARAJA RAVANESHWAR PROSAD SINGH BAHADUR OF GIDHOUR.

The HON'BLE SURENDRANATH BANERJEE.

The HON'BLE MAULVI SERAJUL ISLAM KHAN BAHADUR.

The HON'BLE W. C. BONNERJEE.

The HON'BLE MAHARAJA JAGADINDRA NATH ROY OF NATOR.

The HON'BLE J. N. STUART.

THE MUHARRAM PROCESSION AT GAYA.

The Hon'ble MR. W. C. BONNERJEE asked—

Whether the Government will reconsider the decision embodied in its letter No. 798J., dated 6th February, 1894, addressed to the Commissioner of the Patna Division, disallowing the prayer of the Shias of Gaya to carry an *alam* with *maskh* and *tir* in their processions and allow them to carry these emblems in the next Muharram and Chehloom processions, directing the local officers to take proper safeguards for the preservation of the peace?

The Hon'ble MR. COTTON replied :—

"In the town of Gaya the Shias number only 150 to 200 souls, while the number of Sunnis is about 10,000. The Sunni community entertain a

deep-rooted aversion from the use of symbols in any form, and especially to the exhibition of the symbols of the *maskh* and *tir* with the *alam* in the Muharram procession. It is unnecessary to consider the grounds of this aversion: it exists, and the fact remains that in 1882, when the procession with these emblems was permitted, a disturbance took place which was only quelled by the interference of a large body of police. Since that year the executive authorities in the exercise of their legal powers have prohibited the carrying of these emblems in public procession, and this prohibition has been annually enforced. During the past two or three years there has been an active agitation on the part of the Shias to rescind the prohibition, and the whole subject has been fully reported on by the local officers and has been carefully considered by Government. The final orders of the Lieutenant-Governor were contained in my letter No. 798J., dated 6th February, 1894, to the address of the Commissioner of Patna, in which it was laid down that no change in the established procedure could be allowed in Gaya or elsewhere. The Lieutenant-Governor is convinced that the principle of withstanding innovations must be maintained. Moreover, the emblems, if allowed at all, would have (as is admitted in the terms of the Hon'ble Member's question) to be conducted under a special guard appointed for the purpose. This the Lieutenant-Governor cannot permit, and the Government adheres to the principle laid down in my letter quoted that no community has a right to carry out religious observances in public which are not sanctioned by continuous usage, which offend another community, and which would lead to riot if not protected by the strong arm of the police.

"For these reasons, the Lieutenant-Governor declines to reconsider the orders prohibiting the carrying of these emblems in public procession in the town of Gaya."

EXCHANGE COMPENSATION ALLOWANCE TO EURASIAN CLERKS.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Will the Government state if it is a fact, as stated in one of the newspapers, that in the returns which are prepared from time to time showing the respective number of Europeans and Natives in Government service, it is the usual practice to include Eurasian clerks under the head of "Natives?" Whether,

as stated in the same newspaper, among the Eurasian clerks who are shown as "Natives" in the returns referred to above, there are not some who have been drawing exchange compensation allowance?

The Hon'ble MR. BOURDILLON replied:—

"The Lieutenant-Governor has not seen the newspaper statement to which the Hon'ble Member alludes, and cannot therefore say to what returns reference is made; no returns answering to the description given are prepared by or under the orders of the Government of Bengal. The figures given by the Chief Secretary in reply to a question by the Hon'ble Member on the 9th February last referred only to superior officers, and did not include clerks. The Hon'ble Member may, however, rest assured that no official is granted exchange compensation allowance who has not established the fact that he has a European domicile."

RESETTLEMENT OF LAND REVENUE AND AMENDMENT OF BENGAL TENANCY ACT, VIII OF 1885.

The Hon'ble MR. BUCKLAND said:—"It will be in the recollection of the Council that on the 28th of April last I introduced into Council a little Bill to remove doubts which have arisen in connection with the resettlement of land revenue in temporarily-settled areas, and to amend the Bengal Tenancy Act, VIII of 1885. On that occasion I said that nothing further would be done at that moment than to read the Bill in Council and to circulate it for opinion, and that later on it might be necessary to appoint a Select Committee to deal with any opinions and criticisms which might be received, and to consider any suggestions which might be made. The Bill was read without discussion, but a number of reports have since been received from Associations and others interested in the measure, and it is now my duty to refer the Bill to a Select Committee for the consideration of those reports. I therefore move that the Bill to remove doubts which have arisen in connection with the resettlement of land revenue in temporarily-settled areas, and to amend the Bengal Tenancy Act, VIII of 1885, be referred to a Select Committee consisting of the Hon'ble

Messrs. BOURDILLON, WILKINS and GHOSE, the Hon'ble MAULVI SERAJUL ISLAM KHAN BAHADUR, the Hon'ble MAHÀRAJA JAGADINDRA NATH ROY OF NATOR and the Mover.

The Motion was put and agreed to.

The Hon'ble THE PRESIDENT said:—"There is no other business before the Council to-day, but I may mention now that I hope the members of the Select Committee will be able to arrange to meet at a very early date for the purpose of considering the Bill. As far as I am aware, the Bill contains no contentious provisions or matters to which objection is likely to be taken on principle. The only question, as far as I know, which is likely to arise would be possible emendations of language, which may be suggested by the Legislative Department or by our legal experts in Council. In that case, if our anticipations are fulfilled, I hope the Report of the Select Committee will be at once laid before the Council, and that the Council will meet again on Saturday next to consider and pass the Bill. If no objection is taken to the Bill, I presume it will be convenient for hon'ble members to pass this Bill at once next Saturday, and in that case I do not think it will be necessary to summon the Council again for any further business during this summer session."

The Council adjourned to Saturday, the 14th instant.

GORDON LEITH,

Assistant Secretary to the Govt. of Bengal, Legislative Department.

CALCUTTA ;
The 16th July, 1894.

Reg. No. 852G.—300—16-7-94.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 *and* 1892.

The Council met at the Council Chamber on Saturday, the 14th July, 1894.

Present:

The Hon'ble Sir Charles Alfred Elliott, K.C.S.I., Lieutenant-Governor of Bengal, *presiding.*

The Hon'ble Sir Charles Paul, K.C.I.E., *Advocate-General.*

The Hon'ble H. J. S. Cotton, C.S.I.

The Hon'ble J. A. Bourdillon.

The Hon'ble Maulvi Abdul Jubbar Khan Bahadur.

The Hon'ble F. R. S. Collier.

The Hon'ble C. E. Buckland.

The Hon'ble C. A. Wilkins.

The Hon'ble Maulvi Syed Fazl Imam Khan Bahadur.

The Hon'ble Surendranath Banerjee.

The Hon'ble L. Ghose.

The Hon'ble Maulvi Serajul Islam Khan Bahadur.

The Hon'ble W. C. Bonnerjee.

The Hon'ble Maharaja Jagadindra Nath Roy of Nator.

The Hon'ble J. N. Stuart.

WATER-WORKS AT HOWRAH.

The Hon'ble Mr. Ghose asked—

1. Whether the site of the intake of the proposed Howrah Water-Works is not within a distance of about 60 yards from a largely-frequented public ghât, and whether, within a distance of 400 yards from the intake, there are not several other ghâts, and whether it is the fact that within that distance from the intake some 3,000 coolies employed in the India Mill are in the habit of bathing daily?

2. Whether for three miles above the proposed intake the shore is not lined with a succession of bathing ghâts at which the inhabitants of the towns of

Baidyabati, Sheorapholi, Chattra, and Serampore, amounting to 30,000 persons or thereabouts, bathe daily, and whether it is the fact that there are no public ghâts for a considerable distance above and below the intake of the Calcutta Water-Works at Fulta?

3. Whether complaints as to the insanitary state of the foreshore within 400 yards of the intake have been recently made to the Serampore Municipality; and whether, if cholera breaks out among the persons bathing, there is not a reasonable probability of the germs being transmitted to Howrah; and whether it is the fact that Dr. Simpson, the Health Officer of the Calcutta Corporation, has advised against the scheme on sanitary grounds, and suggested a site higher up the river, and whether the Government proposes to take any, and if so what, steps in the matter?

The Hon'ble MR. BOURDILLON replied:—

"The Lieutenant-Governor is informed that there is a largely-frequented bathing ghât about 60 yards above the intake of the proposed Water-Works at Serampore, and that there are three or four other ghâts within some 400 yards of the spot.

"The facts stated in the second paragraph of the Hon'ble Member's question are substantially correct; but although it is believed that there are no bathing ghâts in the immediate vicinity of the Fulta Water-Works, there are many of them within three miles above and below the intake at that place.

"As regards the third question, it has been ascertained that an objection was made in January last by the Civil Medical Officer of Serampore to the effect that the river bank was being polluted: the nuisance was immediately put a stop to. Government is not aware of any other complaints of this character. Whether cholera is likely to be conveyed from Serampore to Howrah through the Water-Works, the Lieutenant-Governor cannot pretend to say. It is not the fact that the Health Officer of Calcutta has advised on sanitary grounds against the scheme of an intake at Serampore, or suggested a site higher up the river.

"The Government does not propose to interfere with the arrangements already in progress. I may inform the Hon'ble Member that the mouth of the pipe through which the water is drawn is 100 feet away from the river bank

and 10 feet below the surface at low water. The water at this point has been analysed and shown to be a sufficiently good potable water, and it will pass through settling and filtering tanks before transmission to Howrah Lastly, if Serampore were abandoned as the site of the water-works, they would have to be moved some six miles up the river, and the additional cost would be fatal to the whole project."

DACOITY AT KHURDA.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Has the attention of Government been called to the disturbed state of the villages lying within the jurisdiction of the Khurda thana in the sub-division of Barrackpore, to the case of dacoity at Patali, and to the cases of theft and burglary which are of frequent occurrence in the neighbourhood?

Whether any representations have been made in this connection to the District Magistrate, and what action, if any, has been taken upon those representations?

The Hon'ble MR. COTTON replied:—

"On receipt of the Hon'ble Member's question the Lieutenant-Governor caused enquiries to be made and has ascertained that a dacoity occurred last month at Patali, and is still under enquiry. There has been a slight increase in the number of thefts and burglaries reported in the Khurda thana during the first six months of the current year, the number being 41 against 35 during the corresponding period of 1893.

"The District Magistrate has received various representations on this subject, and proposals for the improvement of police arrangements in Khurda are under his consideration.. In the meantime, extra constables have been deputed to that thana for patrol duty."

MUHARRAM PROCESSION AT CALCUTTA.

The Hon'ble MR. GHOSE asked—

Whether on Monday last, the 9th instant, between 9 and 10 P.M., some of the streets of Calcutta, including Circular Road, from the corner of Harrison

Road to the junction of Theatre Road, were not occupied by successive groups of *Muharram akharas*, not being processions passing along the streets, but stationary crowds occupying the entire width of the road and forming a ring, in the centre of which performances were going on with *lathies* and lighted torches, entirely blocking the traffic to the great inconvenience of passengers and causing imminent danger to persons driving along the road?

Whether a certain number of constables were in attendance upon each of these *akharas* without taking any steps to make them pass on, and whether the permission given by the Police authorities referred only to processions passing along the road, or whether such permission actually sanctioned the occupation of the road at various points by the different *akharas* for the purpose of the said performance?

Whether, having regard to the fact that a sufficient number of suitable places, such as squares and waste lands besides the *maidan*, are available for the purpose of such performances, the Government will consider the desirability of prohibiting such performances taking place in the public thoroughfares?

The Hon'ble MR. COTTON replied:—

"By notification dated the 5th July, 1894, issued under the provisions of section 62 of Act IV (B.C.) of 1866, and section 39 of Act II (B.C.) of 1866, the Commissioner of Police granted licenses for processions with music on account of the celebration of the Muharram in the Town and Suburbs of Calcutta on Monday, the 9th instant, between the hours of 9 P.M. and 10 P.M. The *akharas* referred to by the Hon'ble Member formed part of the procession and passed along the routes prescribed. Such processions are allowed to halt at intervals for the purpose of mimic warfare. About 450 licenses have been issued to take out processions during the present Muharram.

"The practice is to tell off a certain number of policemen to accompany each *akhara*, but the orders issued to the Police forbid interference except to maintain order and to ensure that the route and hours prescribed are duly observed.

"It has been established by long custom that these processions shall proceed by certain routes to enable them to visit shrines and other places held in veneration. It would not be possible therefore to restrict such processions to squares and waste lands or to the *maidan*. The above usage applies not only

to Muharram processions, but to other assemblies and processions, which take place annually in the Town and Suburbs of Calcutta, and on such occasions the temporary obstruction of ordinary traffic in certain public thoroughfares is unavoidable: but intimation is always given to the public by notifications previously issued."

RE-SETTLEMENT OF LAND REVENUE AND AMENDMENT OF BENGAL TENANCY ACT, VIII OF 1885.

The Hon'ble MR. BUCKLAND, in presenting the Report of the Select Committee on the Bill to remove doubts which have arisen in connection with the re-settlement of land revenue in temporarily-settled areas, and to amend the Bengal Tenancy Act, VIII of 1885, said:—"A very few words of explanation are needed. I may say at once that the meeting of the Select Committee appointed at our last sitting was not a long one, but we discussed the Bill thoroughly, and removed what might have been considered to be the only contentious matter. I think I may say that the Bill as it now stands is free from any possible objection. We have made a few verbal amendments with the intention of making the object of the Bill more clear. In the preamble we have introduced some words so as to make it plain that the Bill applies to Government estates, as the expression 'temporarily-settled areas' has hitherto been held, in Bengal Revenue literature, as not necessarily including Government estates. There is really no alteration of principle by the introduction of these words. In the second section we have made a slight alteration in the language so as to show that new rents settled shall not take effect until the date upon which the new settlement of land revenue comes into force. The change was made to meet a criticism offered by one of the Associations to whom the Bill was sent for the favour of their opinion. A material change has been made in what now stands as the second proviso in the second section of the Bill. The Bill as originally presented to the Council on the 28th April last contained a proviso that Government might direct a revision of rents under certain circumstances. The words 'under certain circumstances' did not appear; but, as I explained at the time, the intention was that Government could apply for revision of rents when mistakes had been made, either by fixing notoriously low rents or oppressively high rents, by inexperienced Settlement Officers. It came to the notice of Government

that, by some extraordinary misconception, objection was taken to this proviso, and at the instance of Government the Select Committee have, on my suggestion, withdrawn the words which stood in the original Bill. The object of the Government may be stated briefly to have been as follows: It was intended that power should be given to the Government to direct a judicial revision by another Revenue Officer of rents which have been judicially fixed by a Revenue Officer, when circumstances such as the fixing either of notoriously low or oppressively high rents by subordinate officers came to light after the right of appeal had lapsed. It was intended by these means to rectify the mistakes of inexperienced officers, and the phrase used that such revision should be fair and equitable was intended to imply the exercise of judicial procedure on the part of the revising Revenue Officer. There was never any intention on the part of Government to interfere by the exercise of final executive authority to revise rents which had been settled judicially. But as this strange misunderstanding has come to light, these words have been withdrawn. The intention of Government is now that such mistakes shall not be allowed to occur; by a careful selection of Settlement Officers, and their Assistants, by adequate supervision of the Settlement Officer over his subordinates, and by exercise of the right of appeal within the 30 days allowed, it is hoped to obviate the necessity for any such provision. It is quite possible that it may be hereafter found necessary to make some such provision for the rectification of mistakes. The result will be for the present that when mistakes have been made there will be no legal power for getting rents reduced or otherwise altered, but the omission of these few words removes, as I have said, all contentious matter from the Bill. The intention of the Government, that the revision of rents shall be by judicial procedure in the cases when it is to be allowed on the application of landlord or tenant under special circumstances, has been made more clear by the addition of a few words to the end of section 2, to the effect that the provisions of Chapter X of the Bengal Tenancy Act shall apply in this connection, and an explanation has been added to show that the settlement of land revenue includes the settlement of rents in Government estates. I ought to mention that in Select Committee a little point was raised which led to some little discussion. It was suggested that as power had been given to revise rents on the application of landlords and tenants under special circumstances, such as the occurrence of cyclones, diluvion, or other convulsions of nature, we ought to take power at the same time to

provide for the revision of the land revenue which would follow necessarily on the revision of rents. We discussed the matter and came to the conclusion that, as this little Bill only deals with the settlement of rents, and not with the settlement of land revenue, and as it is perfectly certain that the Revenue Settlement Officers will take cognizance of such revision of rents as are effected under such circumstances, it would be out of place in this Bill to introduce any provision in regard to the revision of revenue settlements entailed by the revision of rents in these particular circumstances. I promised the Select Committee that I would mention the matter in order that it might be placed on record, and I have fulfilled my pledge accordingly."

The Hon'ble MR. BUCKLAND also moved that the Report of the Select Committee on the above Bill be taken into consideration by the Council, and that the clauses of the Bill be considered for settlement in the form recommended by the Select Committee.

The Motions were put and agreed to.

The Hon'ble MR. BUCKLAND, in moving that the Bill, as amended by the Select Committee, be passed, said:—"I think the Council will hardly desire any recapitulation of the main objects of the Bill—certainly not at any length, and I do not propose to detain the Council more than a minute. The principal object of the Bill has been met by section 1, to which I have not adverted this morning, because no change has been made in it by the Select Committee. The Council will remember that the necessity for legislation arose in consequence of the opinion given by our legal advisers that under the existing law the settlement of rents could not be undertaken previously to the expiration of a land revenue settlement. The few words which have been introduced by this Bill into the Bengal Tenancy Act have been considered sufficient by our legal advisers to meet the requirements of the law, so that now the Government will be able to undertake the settlement of rents at any time—two, three, or more years if necessary—before the expiry of the land revenue settlement. But by a later section the new rents will not come into force until the new land revenue settlement takes place. The other provisions of the Bill are merely ancillary to this main object. The last section is an

indemnifying section, as it were, to validate what had been previously done on a possibly erroneous understanding of the law. I now beg to move that the Bill, as amended, be passed."

The Motion was put and agreed to.

ADJOURNMENT OF COUNCIL.

The Hon'ble THE PRESIDENT said:—"There will be no further business to lay before the Council in the present autumn session, but I conceive that we shall have some important business to discuss when we meet again in the winter time."

The Council adjourned *sine die*.

GORDON LEITH,
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

CALCUTTA;
The 23rd July, 1894.

Reg. No. 371G.—300—24-7-94.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 *and* 1892.

THE Council met at the Council Chamber on Saturday, the 25th August, 1894.

Present:

The HON'BLE SIR CHARLES ALFRED ELLIOTT, K.C.S.I., Lieutenant-Governor of Bengal, *presiding.*

The HON'BLE SIR CHARLES PAUL, K.C.I.E., *Advocate-General.*

The HON'BLE H. J. S. COTTON, C.S.I.

The HON'BLE SIR JOHN LAMBERT, K.C.I.E.

The HON'BLE MAULVI ABDUL JUBBAR KHAN BAHADUR.

The HON'BLE F. R. S. COLLIER.

The HON'BLE C. E. BUCKLAND.

The HON'BLE C. A. WILKINS.

The HON'BLE MAULVI SYED FAZL IMAM KHAN BAHADUR.

The HON'BLE SURENDRANATH BANERJEE.

The HON'BLE L. GHOSE.

The HON'BLE MAULVI SERAJUL ISLAM KHAN BAHADUR.

The HON'BLE W. C. BONNERJEE.

THE BENGAL POLICE.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Will the Government state the reasons why, under the Notification dated the 16th July, 1894, which appeared in the *Calcutta Gazette* of the 18th July last, announcing that an examination of candidates for recruiting the staff of the superior Police Officers in Bengal will be held in December next, it has been laid down by implication that Native Indian candidates will be excluded, and that only such European candidates as have been nominated by the Lieutenant-Governor will be permitted to present themselves for examination? Whether the Government is prepared to reconsider this part of the notification?

Will the Government state (1) the number of Assistant and District Superintendents of Police in the Bengal Police Force, (2) the number of native gentlemen who are Assistant and District Superintendents of Police, (3) the

number of Assistant Superintendents who have been selected from among Inspectors in accordance with the recommendation of the Public Service Commission?

The Hon'ble MR. COTTON replied:—

"The result of a long discussion which followed on the Report of the Public Service Commission has been that the strength of the Police Department for Bengal and Assam has been fixed at 94 officers, of whom 2 are Deputy Inspectors-General of Police, 55 are District Superintendents, 29 are Assistants, and 8 Probationers. The average annual recruitment required to keep up this force is about 4½. It has been decided that two officers should be appointed annually by competitive examination in England and two by competitive examination in India, these being officers of European parentage. The examination referred to in the Hon'ble Member's question is the second of these, or the Indian one. It has been decided to appoint for the present two Natives of India to the police in every three years, but it has not been thought desirable to appoint them by competitive examination, and they will, as a rule, be promoted by selection from among Inspectors in accordance with the recommendation of the Civil Service Commission.

"The number of Native District Superintendents now in the Department is two: the number of Native Assistant Superintendents is three. The number of Assistant Superintendents who have been selected from Inspectors is three, viz., Babu Ras Behary Biswas, on the 19th January, 1891; Maulvi Zinnat Hosain Khan; on the 23rd June, 1892, and Babu Girindro Chunder Mukherjea, on the 21st May, 1894."

GOVERNMENT AND HIGH EDUCATION.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Whether the attention of the Government has been drawn to the comments which have appeared in the newspapers on the Resolution of Government on the subject of Local Self-Government, and the evident sense of alarm in regard to the question of high education, which the Resolution has created? Is it the intention of the Government that local funds at the disposal of the District Boards should not be devoted to the support of education of a higher

kind until full provision has been made for primary education? Is the Government aware that such an order, if given effect to, would mean the virtual closing of a large number of grant-in-aid schools, which impart secondary education?

Will the Government state the percentage of educational grant that used to be spent upon primary education by the Government before the creation of the local bodies? If the percentage varied from time to time, will the Government state the percentage for the five years preceding the establishment of the District Boards under the Local Self-Government Act?

The Hon'ble MR. COTTON replied:—

"The Hon'ble Member's question refers to a passage which occurs in the preamble to the Resolution of the 28th June, 1894, and which was itself a quotation from a previous order. The bearing of this passage must be ascertained from a consideration of the drift of the Resolution itself.

"The object of the Resolution was to point out that while the income of District Boards had increased considerably since 1888-89, their contributions to education had scarcely increased at all. The sum spent by Government on the educational establishments made over to District Boards was Rs. 10,09,657, or, including scholarships, which were afterwards transferred to them, Rs. 10,39,177; and this amount was placed at the disposal of the District Boards in addition to the Road Cess and other funds with which they dealt. In the year 1888-89 their expenditure on education was Rs. 10,30,809, and on primary education alone Rs. 6,84,547. In the year 1892-93 their outlay on education had risen only to Rs. 10,54,477, and that on primary teaching to Rs. 7,07,785. Meanwhile their total income had risen from Rs. 51,24,896 to Rs. 59,55,285. The Lieutenant-Governor urged upon the District Boards the importance of devoting a portion of their growing resources to education, and more particularly to primary instruction. No suggestion was made that primary schools should be fostered at the expense of secondary schools by diverting funds from the one class to the other. The importance of fostering all sorts of schools was insisted on, and it was urged that especial attention should be given to the spread of primary education. During the present year an additional sum of Rs. 31,000 has been placed at the disposal of the Director of Public Instruction from Provincial Revenues to be expended on primary teaching in the districts where that class of education is most backward.

[*Mr. Cotton; Babu Surendranath Banerjee.*]

"In the latter part of the Hon'ble Member's question he is understood to enquire what percentage the total expenditure on primary education bore to the total expenditure on education in the Province before the District Boards were created. The figures obtained from the information before Government are as follows:—The percentage was in 1882-83, 25·5; in 1883-84, 25·3; in 1884-85, 28; in 1885-86, 27·4; in 1886-87, 26·4. These figures, however, are believed to be somewhat lower than the true percentages, as some portions of the expenditure under general heads, such as Inspection, Buildings, &c., which are debitable to primary education, cannot be detached without detailed enquiry and calculation, which there has not been time to make."

THE MUHARRAM DISTURBANCES AT RAJSHAHI.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Has the attention of Government been called to the *Muharram* disturbances at Rajshahi? Is it true, as reported in the newspapers, that the police fired upon the people without any orders from their superior officers, although no resistance had been offered by the Muhammadans when the *lathis* were being taken away from them by the police? Did the constables fire in the presence of their superior officers? If so, why did they not interfere with a view to stop the firing?

Whether any enquiry was held into the matter by the Magistrate and the Inspector-General of Railway Police, and will the Government lay on the table the reports, if any, of these officers? Will the Government state what steps it proposes to take to prevent the recurrence of such proceedings on the part of the police?

The Hon'ble MR. COTTON replied:—

"The attention of Government has been drawn to the disturbances referred to. Special enquiries have been made into them by the Inspector-General of Police, and also by the Commissioner of the Division, and the reports received from those officers, which have just been placed in the hands of the Lieutenant-Governor, are now under consideration. It has been shown that five police constables fired once each, three with blank cartridge and two with

buckshot, not with ball, as has been stated in some newspapers, without any orders to do so from their superior officers, and they have each of them been convicted under section 29 of Act V of 1861, and sentenced to simple imprisonment for one month and one day. They were rushed by the mob, and two of them having already received rough treatment from the rioters, they were panic-stricken and fired without orders.

"The reports received and the orders passed thereon will be made public in due course."

THE MEA CHAPRA CASE.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Has the attention of Government been called to a letter from its Muzaffarpur correspondent, which appeared in the *Bihar Herald* of the 14th July last?

Is it the case, as stated in the letter, that the raiyats of Shapur Buzurg, in the subdivision of Hajipur, having complained against some of the factory people employed in the Mea Chapra Indigo concern, the petition was referred by the Subdivisional Officer, Mr. Konstam, to the Manager of the Factory, whose servants were complained against, "for favour of enquiry and report?" Does the Government approve of such a proceeding, in which a person directly interested in the prosecution is allowed to have a voice in the decision of the case? Will the Government take steps to prevent its recurrence?

Whether it is the case that the Manager in replying to the communication of the Subdivisional Officer addressed him as "My dear Konstam?"

Whether it is true that the Magistrate, without passing any orders upon the complaint of the raiyats, proceeded with the case in which the factory people were the complainants, and convicted seven raiyats and sentenced them to one month's rigorous imprisonment and to a fine of Rs. 10 each?

Whether it is the case, as stated in the letter referred to above, that there was a complaint by the factory servants against some raiyats pending in the file of the Native Sub-Deputy, and that this case was transferred to the file of Mr. Morshed, the then Subdivisional Officer of Hajipur, the Manager having written to Mr. Morshed that the factory case was a true one, and that it should be withdrawn from the file of the Native Sub-Deputy to his own file?

[*Babu Surendranath Banerjee; Mr. Cotton; Sir John Lambert.*]

Will the Government lay on the table a statement showing the number of cases instituted from April, 1893, to June, 1894, within the jurisdiction of the Subdivisional Magistrate of Hajipur (1) by the raiyats against people employed in the factories, (2) by the factory people against the raiyats; (*b*) the number of such cases tried by the Subdivisional Officer and the number of such cases tried by Native Deputy and Sub-Deputy Magistrates; (*c*) the result in each case; (*d*) the number of such cases, if any, transferred to the file of the Subdivisional Officer from the file of Deputy and Sub-Deputy Magistrates, together with the reasons for such transfer?

The Hon'ble MR. COTTON replied:—

"The Lieutenant-Governor understands that the case referred to in the Hon'ble Member's question has been brought before the High Court, and is still pending before that Court. In these circumstances, it would not be proper for Government to express any opinion in regard to it.

"The Lieutenant-Governor does not consider it necessary to obtain the information asked for in paragraph 5 of the Hon'ble Member's question. In the opinion of Government all cases of importance—and cases in which a factory is concerned generally come within this category—should be heard by the Subdivisional Officer himself, and should not be referred for trial to a Sub-Deputy."

TRAVELLING ALLOWANCE FOR POLICE OFFICERS.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Will the Government state the system that is followed in giving travelling allowance to Inspectors belonging to the Calcutta Police Force? Is it true that European Inspectors get travelling allowance when they are transferred from one thana to another, but that the same indulgence is not shown to the Indian Inspectors of Police?

The Hon'ble SIR JOHN LAMBERT replied:—

"The allowance granted to European Inspectors and Constables of the Calcutta Police Force to cover the actual cost of moving their luggage on

[*Sir John Lambert; Maulvi Serajul Islam Khan Bahadur.*]

transfer from one police-station to another is regulated by clause (*l*), article 1189 of the Civil Service Regulations, which runs as follows:—

'(*l*) European Inspectors and Constables of the Bombay City Police and of the Calcutta Town and Suburban Police may charge the actual cost of moving their luggage on transfer from one station to another in the city, provided that the charge shall not exceed Rs. 8 in the case of an Inspector and Rs. 5 in the case of a Constable.'

"It will be seen that this rule does not apply to the case of Native Indian Inspectors."

MUHAMMADANS IN GOVERNMENT EMPLOY.

The Hon'ble MAULVI SERAJUL ISLAM KHAN BAHADUR asked—

Will the Government be pleased to prepare tables showing (*a*) the population of Muhammadans and the number of non-gazetted appointments with salaries ranging from Rs. 15 per month and upwards held by them in the Bengal, Bihar and Orissa districts, (*b*) the population of Hindus and the number of non-gazetted appointments with the same salaries as in (*a*) held by them in those districts, (*c*) the number of non-gazetted Hindu and Muhammadan employés on the same salaries as in (*a*) in—

I.—The Bengal Secretariat.
II.—The Board of Revenue.
III.—The Office of the Inspector-General of Police.
IV.—The Postmaster-General's Department.
V.—The Excise and Customs Department.
VI.—The Divisional Commissioner's Office.
VII.—The Court of Small Causes, Calcutta.
VIII.—The Office of the Inspector-General of Registration.

Will the Government also prepare lists showing (*a*) the total number of appointments in the Subordinate Executive Service and the number of appointments held by the Hindus and the Muhammadans respectively, (*b*) the total number of appointments in the Subordinate Judicial Service, and the number of appointments held by the Hindus and the Muhammadans respectively?

[*Maulvi Serajul Islam Khan Bahadur ; Mr. Cotton.*]

Regard being had to the disproportion of Muhammadans to that of Hindus in Government service, will the Lieutenant-Governor be pleased to pass such orders as will secure for them a certain number of appointments both in the districts and the departments mentioned in question I (*c*), and thus satisfy their claims to share Government appointments with the Hindus?

The Hon'ble MR. COTTON replied:—

"The Government are not prepared to undertake the collection of the statistics called for by the Hon'ble Member or to institute any elaborate comparison between the total number of Muhammadans in each district and the number employed in service under Government. To do so would serve no useful purpose. It is well known that the number of Muhammadans in Government service is very small in comparison with the total number of the Muhammadan population in these provinces, and the reasons for this disproportion are also well known to the Hon'ble Member and to the public. It is the policy of Government to encourage the employment of Muhammadans consistently with the welfare of the public service, and the Lieutenant-Governor has lost no opportunity of giving effect to this policy whenever properly-qualified Muhammadan candidates are available. The number of such candidates, the Lieutenant-Governor is glad to be able to say, is steadily increasing. Certain statistics are furnished every year in the Annual Administration Report of Commissioners of Divisions regarding the number of Muhammadans employed in Government service in every district, and these statistics for the past year will be supplied to the Hon'ble Member, but it is not considered necessary to lay them before the Council."

BENGAL MUNICIPAL ACT, 1894, AMENDMENT BILL.

The HON'BLE MR. COTTON moved for leave to introduce a Bill to amend Bengal Act IV of 1894. He said:—

"In section 37 of Act IV of 1894, certain words are inserted in amendment of section 89 of Bengal Act III of 1884, which enable buildings, the property of Railway Administrations and of local authorities, to be assessed in the same manner as buildings the property of the Government. This provision was introduced in the Bill by the Select Committee, and was passed by this Council without comment. It escaped notice that by the Indian Railways Act of 1890,

an Act passed by the Imperial Council, a provision is made in section 135, which exclusively regulates by rules contained in that section the levy of taxes in respect of railways and from Railway Administrations in aid of the funds of local authorities. In these circumstances it is undesirable for this Council to make any reference in any law passed by it to the assessment of railway buildings; and in order that there may be no possible conflict between any legislation passed by this Council and by the Council of the Government of India, it has been considered necessary to introduce this amending Bill, which eliminates from section 37 of Bengal Act IV of 1894, any reference to buildings belonging to Railway Administrations."

The Motion was put and agreed to.

The Hon'ble MR. COTTON said:—"This measure, Sir, being of a very technical character, it appears unnecessary to postpone its consideration to a future meeting of the Council or to refer it to a Select Committee, and with your permission, Sir, I will ask you to suspend the Rules of Business and to allow me to introduce the Bill and to move that it be read in Council."

The Hon'ble THE PRESIDENT having declared the Rules of Business suspended—

The Hon'ble MR. COTTON introduced the Bill, and moved that it be read in Council.

The Motion was put and agreed to.

The Bill was read accordingly.

The Hon'ble MR. COTTON said:—"I have nothing to add regarding the little Bill I have in my hands. It speaks for itself, and calls for no further explanation. I apprehend that the Council will be willing to accept without objection or comment the motion that the clauses of the Bill be taken into consideration by the Council."

The Motion was put and agreed to.

The Hon'ble MR. COTTON also moved that the Bill be passed.

The Motion was put and agreed to.

The Council adjourned *sine die*.

CALCUTTA;
The 4th September 1894.

GORDON LEITH,
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

Reg. No. 500G—300—7-9-94.